



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **Planning Committee**

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 04 September 2019** at **14:00** to consider the undernoted business.

**1      Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

**2      Minutes**

The accuracy of the Minutes of meeting of the Committee held on 19 June 2019 and will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

**3      Irvine**

Submit reports on the following applications:

**3.1      19/00532/PP: Homebase Ltd 6 Riverway Riverway Retail Park Irvine**

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove condition 2 of planning permission 01/97/0133 to enable the sale of all types of retail goods (copy enclosed).

**3.2      19/00533/PP: 3 Ladyburn Court Lawthorn Irvine**

Change of use of open space to incorporate into garden area including erection of 1.8 metre high fence (copy enclosed).

**4      Isle of Arran**

Submit reports on the following applications:

- 4.1 19/00573/ALO: Clauchlands Cottage No 3 Clauchlands Road Lamlash Brodick Isle Of Arran**  
Removal of Section 75 obligation attached to planning permission 08/00918/PP to remove occupancy restriction (copy enclosed).
- 5 North Coast and Cumbraes**  
Submit reports on the following applications:
- 5.1 19/00351/PPPM: Site To South Of 128-130 Meadowfoot Road West Kilbride**  
Planning Permission in Principle for residential development (copy enclosed).
- 5.2 19/00506/PP: Site To East Of Castlepark Gardens Fairlie Largs**  
Application to vary Planning Condition number 4 of 18/00659/PP, to provide temporary shared-use path adjacent to plots 38, 39 & 46, in lieu of the permanent path proposed adjacent to plots 35, 36 & 37 (copy enclosed).
- 5.3 19/00554/PP: 48 Gallowgate Street, Largs**  
Modification of condition 2 of 18/00518/PP to allow furniture to be stored in Gallowgate Square (copy enclosed).
- 6 Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: former Seafield School, Eglinton Road, Ardrossan**  
Submit report by Executive Director (Place) to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area (copy enclosed).
- 7 Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: Site of Former St Peter's Primary School, 24 South Crescent Road, Ardrossan**  
Submit report by the Executive Director (Place) to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area (copy enclosed).
- 8 Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park**  
Submit report by the Executive Director (Place) to serve a notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 in relation to a construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park (copy enclosed).

**9 Notification by Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard**

Submit report by the Executive Director (Place) on the intentions of Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard (copy enclosed).

**10 The Planning (Scotland) Act 2019**

Submit report by the Executive Director (Place) on a new statutory basis for the operation of the planning system has been passed and to highlight the main changes to the overall framework under which the system operates (copy enclosed).

**11 Control of Advertisements Planning Guidance**

Submit report by the Executive Director (Place) on the current planning guidelines on advertisements (copy enclosed).

**12 Urgent Items**

Any other items which the Chair considers to be urgent.

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## Planning Committee Sederunt

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Tom Marshall (Chair)  
Timothy Billings (Vice-Chair)  
Robert Barr  
Ian Clarkson  
Robert Foster  
Christina Larsen  
Shaun Macaulay  
Ellen McMaster  
Ronnie McNicol  
Donald Reid

Chair:

Apologies:

Attending:

**Planning Committee  
19 June 2019**

Agenda Item 2

**Irvine, 19 June 2019** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Tom Marshall, Timothy Billings, Robert Barr, Ian Clarkson, Robert Foster, Christina Larsen, Shaun Macaulay, Ellen McMaster, Ronnie McNicol and Donald Reid.

**Also Present**

Alan Hill and Ian Murdoch.

**In Attendance**

J. Miller, Senior Manager (Planning) (Economies and Communities); A. Craig, Senior Manager (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor Marshall in the Chair.

**Apologies for Absence**

None.

**1. Declarations of Interest**

Councillor Barr queried if his membership of the Hunterston Liaison Committee required him to declare an interest in respect of agenda item 3. Following the receipt of advice from the Senior Manager (Legal) he decided that it was not a material interest which required him to withdraw from proceedings.

Accordingly, subject to the above, there were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

**2. Minutes**

The Minutes of the meeting of the Planning Committee held on 22 May 2019 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Hunterston Master Plan**

Submitted a report by the Executive Director (Economy and Communities) on the proposed response to the consultation by Peel Ports Group on their draft Master Plan for the Hunterston Port and Resource Centre. The report recommended that both the Committee report and the consultation response, set out at Appendix 1 to the report, be submitted to Peel Ports Group following approval.

The Chair advised that he had accepted a request from Councillor Ian Murdoch to address the Committee in terms of his concerns around the Hunterston Master Plan. It was also noted that deputations have historically only been permitted in relation to planning applications; however, in this case, given the high level of public interest and, in the interest of transparency, the Chair agreed to make an exception.

Councillor Murdoch began by raising concerns around Peel Port's refusal to hold public consultation events in Largs and West Kilbride, the two highest populated towns in close proximity to the site, during the consultation period despite requests from residents. The Scottish Government's National Planning Framework 3 was referenced as well as the fact that Hunterston was not one of the three sites identified as potentially suitable for thermal energy generation. Councillor Murdoch then discussed the possible impacts of the proposed plans which had not been raised in the Master Plan including on tourism, HGV road use and future development of the site for other uses.

Concerns were also raised by Councillor Murdoch around the impact on public and environmental safety which a Liquefied Natural Gas (LNG) site located so close to a populated area would have. The lack of consultation with the Office of Nuclear Regulation despite the site being located within the consultation zone and the risk to the SSSI site from oil rig recommissioning were highlighted. He also made reference to the consultation response from a local resident, who has specialist experience in this area, which highlighted numerous errors in the Master Plan.

Councillor Murdoch requested that a number of amendments be made to the response around engagement with local residents and elected members, clarification of the impact of an LNG station on Hunterston C Nuclear Power Station and a query around the headline figure for job creation. He summarised by requesting that the Committee treat this document as a consultation rather than a master plan and refuse to endorse it in its current form.

The Chair then referenced correspondence which had been submitted by Friends of the Clyde to members of the Committee prior to the meeting which highlighted their concerns around the draft Master Plan.

The Senior Manager (Planning) then highlighted that officers normally respond to consultations under delegated powers; however, due to the high level of public interest in Hunterston it was appropriate that this matter be considered by the Planning Committee. He went on to summarise the report and confirmed that the Committee was not being asked to endorse the draft Hunterston Master Plan but to approve a consultation response.

Councillor Foster circulated a document which quoted paragraph 11 of the consultation response (Appendix 1 to the report) with an additional sentence added in bold as set out below:

“A long-list of potential development and operational activities are introduced at paragraph 3.10, including: bulk handling facilities for importing, processing and distributing dry and bulk liquid cargoes, including liquified natural gas (LNG); offshore wind energy; construction for marine and offsite manufacturing; decommissioning vessels and oil and gas structures; materials management; heat and power generation, from LNG and renewable sources. The key concern for the Council as planning authority is whether these proposals conform with the Development Plan. While many of these uses are compliant with the direction and general strategic approach of LDP2 (and the existing LDP), we would require further detail to consider the merits of others, namely power generation, LNG storage, the decommissioning of vessels and, noted elsewhere within the Master Plan, land-based aquaculture. **However, at this early stage the Planning Committee wishes to outline our opposition to LNG storage and would encourage a renewable energy activity as a suitable replacement to accord with our commitment to a low-carbon circular economy.** In this regard, the Master Plan is a legitimate means of Peel promoting overarching strategic proposals and a means of discussing the future development of Hunterston, including with the Council; it should be noted, however, the Master Plan is not Council endorsed, at least in its current form.”

The Chair also made reference to a request from Councillor Hill to make grammatical adjustments to line eight of paragraph 11 in the consultation response to change the words “many” and “are” to “some” and “may be” respectively.

Councillor Marshall, seconded by Councillor Billings, moved that the Committee approve the response to Peel Ports Group on the Hunterston Master Plan Consultation Draft subject to (i) the grammatical changes at line 8 of paragraph 11 as mentioned above; and (ii) the addition of comments which reiterated that:

- a) North Ayrshire Council supports the re-development of Hunterston PARC, which is recognised as having the enabling capability to bring international levels of investment to Scotland and Ayrshire, via the Proposed Local Development Plan and Ayrshire Growth Deal;
- b) the Master Plan could be more concise, more engaging in its presentation and clearer in its message of the overarching strategy and opportunities for Hunterston PARC;
- c) concerns with the socio-economic study, which should be a more positive and aspirational about the potential that Hunterston possesses to transform the regional economy;
- d) at this early stage the Planning Committee wishes to outline our opposition to LNG storage and would encourage a renewable energy activity as a suitable replacement to accord with our commitment to a low-carbon circular economy; and
- e) the Committee strongly recommends robust community engagement and that any developments seek to enhance the environment where appropriate.

There being no amendment the motion was declared carried with Councillor Barr requesting that his dissent be recorded.

Councillor Larsen left the meeting at this point.

#### **4. Planning Performance Framework**

Submitted report by the Executive Director (Economy and Communities) on the draft 2018/19 Planning Performance Framework report which is due to be published on the Council's website and submitted to the Scottish Government. The draft framework was appended to the report.

The Senior Manager (Planning) summarised the report and framework, highlighting a number of points including the fact that North Ayrshire were finalists in the Local Authority Team of the Year category at the RTPI Awards for Planning Excellence; the proposed LDP2 which was approved, published for representations and submitted to Scottish Ministers in just five months; a reduction in determination times for householder planning applications; and their role in stimulating the housing market in North Ayrshire through collaboration with the housing building industry.

The Chair, on behalf of the Committee, thanked the Planning Team for their efforts throughout the previous year and commended the excellent standards which have been set.

The Committee unanimously agreed to approve (i) content of the latest Planning Performance Framework report, (ii) its submission to the Scottish Government; and (iii) its publication on the Council's website.

Councillor Reid left the meeting at this point.

#### **5. 19/00164/PP: Glaxosmithkline, Shewalton Road, Riverside, Business Park, Irvine**

GlaxoSmithKline Plc. have applied for planning permission for the erection of two wind turbines each measuring 86m to hub and 149m to blade tip, to include associated infrastructure. No letters of representations were received in respect of the application.

The Committee unanimously agreed to grant the application subject to the following conditions:

1. No turbine blade shall be fixed to either turbine until:
  - (i) The developer has agreed radar mitigation schemes with Glasgow Prestwick Airport and the National Air Traffic Services and those schemes have been approved in writing by North Ayrshire Council as Planning Authority; and
  - (ii) The approved mitigation measures have been implemented to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the development shall operate fully in accordance with the approved schemes and shall not operate should the radar mitigation measures not be achieved because the developer or the operator does not comply with the Scheme.

2. At wind speeds not exceeding 12ms<sup>-1</sup>, as measured or calculated at a height of 10m above ground level at the wind turbine, the noise immission level at any noise sensitive premises, including those dwellings listed in Table 5 of the applicant's Noise Report 'Proposed extension to wind energy development - GSK Irvine, Noise Impact Assessment, KSG Acoustics, Prepared for Stephenson Halliday, 27 February 2019', shall comply with the following:
  - (i) During night hours, defined in The Assessment and Rating of Noise from Wind Farms, 1996 ETSU-R-97 as 23:00 to 07:00 on all days, the cumulative noise immission level of the two wind turbines associated with this permission and the two existing wind turbines (built under permissions 09/00878/PP and 12/00629/PP) shall not exceed 43dB LA<sub>90,10min</sub> or the ETSU-R-97 derived night hours noise limit based on the measured LA<sub>90,10min</sub> noise level plus 5dB(A), whichever is the greater. The night hours noise limits shall be taken from Table 5 of the applicant's noise report.
  - (ii) During Daytime Hours, defined as 07:00 to 23:00 on all days, the cumulative noise immission level of the two wind turbines associated with this permission and the two existing wind turbines (built under permissions 09/00878/PP and 12/00629/PP) shall not exceed 35dB LA<sub>90,10min</sub> or the ETSU-R-97 derived quiet waking hours noise limit based on the measured LA<sub>90,10min</sub> noise level plus 5dB(A), whichever is the greater. The quiet waking hours noise limits shall be taken from Table 5 of the applicant's noise report.
3. When assessed at any noise sensitive premises the operation of the wind turbine shall not result in any audible tones as defined in The Assessment and Rating of Noise from Wind Farms, 1996 (ETSU-R-97).
4. The presence of any significant unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Environmental Health Service of North Ayrshire Council. Thereafter, a suitable investigation strategy, agreed with the Environmental Health Service of North Ayrshire Council, shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site.
5. That the applicant shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to North Ayrshire Council as Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. A method statement for the watching brief will be submitted by the applicant, and agreed by the West of Scotland Archaeology Service, and approved in writing by North Ayrshire Council as Planning Authority prior to the commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to North Ayrshire Council as Planning Authority in writing not less than 14 days before the development commences.

6. That the applicant shall construct and operate the development in accordance with the Protected Species Survey Report (ref. SHA05.19.1833) and, where necessary, shall implement recommended mitigation measures contained in the Protected Species Survey Report to the satisfaction of North Ayrshire Council as Planning Authority.
7. By the end of a period of 25 years from the completion of the development, all of the above ground elements of the development hereby approved shall be removed within 24 weeks. Thereafter, the site shall be restored in accordance with an appropriate scheme of restoration to be approved in writing by North Ayrshire Council as Planning Authority.
8. If any turbine ceases to be operational for a continuous period of 6 months all of its above ground elements shall be removed within 24 weeks and the ground reinstated to the satisfaction of North Ayrshire Council as Planning Authority.
9. No development shall commence on the site until a Construction Method Statement, including details of all on-site construction works, detailed timescales for the various stages of site clearance, construction and commencement of operation and environmental mitigation measures has been submitted to, and agreed in writing by North Ayrshire Council as Planning Authority. The development shall then progress in accordance with the approved Construction Method Statement.
10. That prior to the commencement of the development hereby approved, the applicant shall complete all relevant Abnormal load movement application and notification forms and submit all relevant forms to North Ayrshire Structures Team. Unless otherwise agreed in writing by North Ayrshire Council as Planning Authority, all HGV traffic associated with the construction of the wind turbines shall enter and leave the site from the A78 trunk road via the Newhouse Interchange, the B7080 (moss Drive) and Oldhall Roundabout.

The Meeting ended at 2.55 p.m.

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**NORTH AYRSHIRE COUNCIL**

4th September 2019

**Planning Committee**

Locality	Irvine
Reference	19/00532/PP
Application Registered	12th July 2019
Decision Due	12th September 2019
Ward	Irvine South

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<b>Recommendation</b>	Approved with no Conditions
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<b>Location</b>	Homebase Ltd 6 Riverway Riverway Retail Park Irvine Ayrshire KA12 8HZ
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<b>Applicant</b>	TJ Morris Ltd
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<b>Proposal</b>	Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove condition 2 of planning permission 01/97/0133 to enable the sale of all types of retail goods
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**1. Description**

Planning permission is sought for non-compliance with condition 2 attached to planning permission 01/97/0133 in order to enable a retailer (Home Bargains) to move into the larger unit currently occupied by Homebase. The current size of Home Bargains is 929 square metres gross (743 sq.m net) whereas the Homebase unit is much larger at 2924 square metres gross (2615 sq.m net plus external garden centre). Home Bargains is within the original part of the retail park, granted planning permission in 1988 and developed around 1990. Homebase is within the second phase, granted planning permission in 1997 and built in 1998. The 1997 planning permission has a condition which states as follows:

"That Units 1 - 8 shall be occupied by businesses selling comparison goods only."

The reason given for the above condition was "to restrict the development to the terms of its justification/special need."

Condition 2 therefore excludes the sale of convenience goods from the second phase of the retail park, with the exception of the Tesco superstore. (Convenience goods include food and drink as well as non-food items such as toiletries and other domestic items typically purchased on a regular basis). As well as the Homebase unit, this restriction also applies to the other units which were granted as part of the permission. The current tenants in the other units granted by the 1997 permission include Currys PC World (adjacent to Homebase) as well as the parade of shops which adjoin Tesco, currently occupied by Pets at Home, Poundworld and Poundstretcher.

The applicant advises that Home Bargains trade with approximately 60% convenience goods and 40% comparison goods. Of this, 70% of sales are non-food, with 30% food sales. As such, they are seeking the removal of the condition to enable Home Bargains to occupy the Homebase unit, which would include the garden centre.

In 2018, planning permission (ref. 18/00655/PP) was granted to remove the convenience goods restriction which applied to the first phase of Riverway Retail Park, given that over thirty years had elapsed since outline planning permission was granted for the development. This relaxation applies to all units in the first phase. It is now proposed that the restriction on convenience goods which was imposed on the second phase of development is lifted.

Over time, Riverway Retail Park has grown and evolved significantly since it was first developed. It offers a diverse range of comparison goods including clothing, sportswear, DIY and gardening products, electrical and electronic goods as well as food and non-food convenience goods. The park also offers a range of restaurants and eating places. Notably, several of the units beside Tesco already sell food and non-food convenience goods, and have done so for many years.

A supporting statement has been provided by the applicant's agent, highlighting the rationale for the proposed change to the historic conditions in order to enable the relocation and expansion of Home Bargains, who would become an anchor tenant as a result of the development.

In terms of the adopted Local Development Plan (LDP), Riverway Retail Park is recognised as a commercial centre for comparison goods retailing. The relevant LDP policies are TC 3 and the General Policy.

### **Relevant Development Plan Policies**

TC3

POLICY TC 3: COMMERCIAL CENTRES

Uses in the allocated Commercial Centres will be restricted as follows:

- (a) Comparison goods, secondary convenience goods and ancillary other commercial development at Riverway Retail Park and Lamont Drive in accordance with the note below;
- (b) Comparison goods retailing at the East Road Retail Park, with commercial leisure uses also acceptable for expansion of the Retail Park; and,

(c) Bulky goods comparison retailing at Hawkhill, Stevenston.

For the avoidance of doubt proposals in accordance with the retail goods categories specified in this policy will also need to comply with Policy TC 4: Edge of Centre/Out of Centre Development. In the case of the Riverway Retail Park, this particularly applies to convenience retailing which should remain a secondary function to the primary function of the park as a comparison goods retail park, and to any other ancillary commercial development which may be considered appropriate. These uses are considered to be more likely to undermine the function and character of the town centre.

General Policy  
GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and

daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,

- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

#### h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

#### i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

## **2. Consultations and Representations**

Neighbour notification was undertaken in accordance with statutory procedures. No representations were received. No consultations were required.

## **3. Analysis**

Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with condition(s) subject to which a previous permission was granted. Section 42 of the Act stipulates that in this type of application the "planning authority shall consider only the question of the conditions subject to which permission should be granted."

The main determining issue in this case is whether the proposed modifications would conflict with the relevant LDP policy and relevant criteria of the General policy.

Circular 4/1998 sets out the tests for planning conditions, as follows:

- Need for a Condition
- Relevance to Planning
- Relevance to the Development to be Permitted
- Ability to Enforce
- Precision
- Reasonableness

Policy TC 3 of the adopted Local Development Plan (LDP) restricts uses at Riverway Retail Park to comparison goods, secondary convenience goods and ancillary other commercial development.

The application proposes non-compliance with a condition attached to a grant of outline planning permission dating from 1997, some 22 years ago. It is noted that LDP Policy TC 3 supports the use of the retail park at Riverway for both comparison and convenience goods, which is consistent with the long established pattern of use at the site. As noted above, there is already a range of food and non-food products on offer at Riverway, as well as a large anchor superstore (food and non-food) and several other long-established convenience type retailers within the second phase of the development. The mix of tenants in the retail park is affected by many economic factors, and in order to remain viable, there have been planning applications made over the years to relax the implications of the 'non-food' limitation that was applied to the first phase in 1988. This change has included the introduction of food retailers and comparison goods retailers within the phase 1 area, the effect of which has increased footfall between Rivergate and Riverway.

The Council's overall policy intention is to safeguard town centres from adverse effects caused by out-of-centre retail developments in line with the 'town centre first' principle. As such, it is considered that Riverway has, for some considerable time, functioned as an extension of Irvine town centre and that it offers a range of goods from a modern format that is complementary to the older parts of the centre. As retail patterns continue to evolve and change in response to a variety of new pressures which were not envisaged twenty or thirty years ago, it is considered that the 1997 condition which limits the second phase of Riverway to comparison only is no longer relevant. The application would also regularise the situation with respect to several tenants who have operated for many years as convenience stores.

Therefore, in applying the Circular 4/1998 tests for conditions to the current proposal, it is considered that the 1997 condition is no longer needed, relevant, precise nor reasonable. The Council has granted every application for relaxing planning conditions on an individual unit basis in the first phase of units at Riverway, introducing food retailers as well as comparison retailers, and concluded this process in 2018 by lifting the restriction to all units in phase 1. Given that both development phases at Riverway are directly adjacent, and function as a single retail park, there is little, if any, land use planning rationale for continuing to operate what is now an historic restriction on the units in the second phase.

The relaxation on the historic restrictions on the second phase at Riverway would enable occupiers to move more freely into the most appropriate unit for their operation, thus providing the owners of the park a more rational basis to organise tenants based on footfall patterns or unit size rather than simply the availability of an unexpected vacancy. This option is demonstrated in the current proposal through the relocation of Home Bargains into a larger unit, to include the ongoing operation of the external garden centre. Home Bargains would thus create a new anchor tenant at the south end of the main group of units, with a focus on convenience retailing which has a higher turnover and greater footfall in comparison with Homebase. The relocation of Home Bargains would also free-up a smaller unit in Phase 1 for another tenant. As with the relaxation at phase 1 which came into effect last year, it is considered that providing such flexibility within Riverway Retail Park would be in the interests of its long term viability without harming the wider town centre of Irvine.

In summary, the proposal for non-compliance with condition 2 of the 1997 outline planning permission is considered acceptable in terms of Policy TC 3.

In terms of the General Policy, criteria (b) and (d) are relevant.

In terms of (b), the proposal is satisfactory in that the proposed removal of condition 2 would have no adverse impact on the amenity of the area. The proposal also has the potential to add positively to the vitality and viability of the wider town centre by attracting a wider range of tenants into both phases of the retail park.

In terms of (d), there would no additional floor space created as a result of the proposed relaxation to condition 2. As such, there would not be any significant impact in terms of traffic generation and the availability of parking spaces. The owner of the retail park has placed a time limit on car parking which ensures that there is a turnover of spaces throughout the day. In addition, the nature of the retail park is such that customers will typically spend a relatively short part of the day there. It is not anticipated that this pattern of use would change through the removal of a planning condition dating from 1997.

In terms of the proposed Local Development Plan (LDP2), which is a material planning consideration, it is noted that the policy framework in relation to the status of Riverway Retail Park as a commercial centre at the edge of Irvine town centre remains similar.

There are no other material considerations. Accordingly, it is considered that planning permission could be granted, meaning that the restrictive effects of condition 2 from the 1997 outline planning permission would no longer apply. This would accord with the provisions of the current and emerging LDP.

#### **4. Full Recommendation**

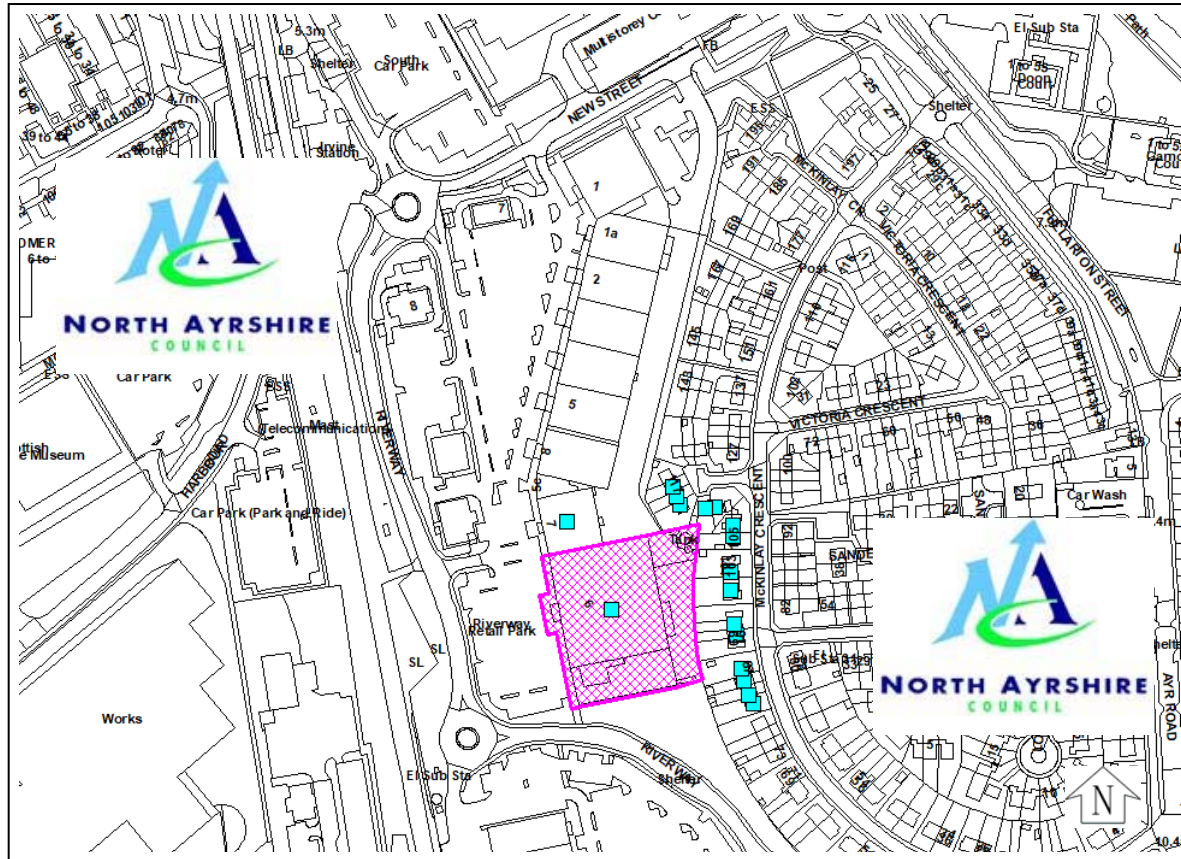
Approved with no Conditions

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr A Hume Planning Officer on 01294 324318.

## Appendix 1 – Location Plan

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**NORTH AYRSHIRE COUNCIL**
**Planning Committee**

Locality	Irvine
Reference	19/00533/PP
Application Registered	17th July 2019
Decision Due	17th September 2019
Ward	Irvine East

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<b>Recommendation</b>	Approved with no Conditions
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<b>Location</b>	3 Ladyburn Court Lawthorn Irvine Ayrshire KA11 2BH
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<b>Applicant</b>	Robert & Joan Corrance
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<b>Proposal</b>	Change of use of open space to incorporate into garden area including erection of 1.8 metre high fence
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**1. Description**

This application seeks planning permission for the change of use of open space to incorporate into a garden area, including the erection of a 1.8m high fence. The open space in question is located to the south east of the existing garden area and measures approx. 20.508sqm.

The application site is located at 3 Ladyburn Court, Lawthorn. The existing building is a bungalow with a conservatory on the south elevation following planning permission being approved without conditions in 1999 (ref. 99/00261/PP). The site is adjacent to a footpath connecting Speyburn Place with Ardbeg Court and Ladyburn Court and the wider footpath serving Lawthorn North. Planning permission had previously been refused in 2005 by the then Planning Committee, for the change of use of a larger area of open ground, measuring 34.7sqm., to private garden ground and the relocation of an existing fence (ref. 05/00102/PP) at the same property.

The application site is within a residential area of Irvine as identified in the adopted North Ayrshire Council Local Development Plan (LDP). The application requires to be assessed against Policy ENV 12 (Development of Open Space) and the General Policy of the LDP.

**Relevant Development Plan Policies**

Development of land identified on the LDP Maps as protected open space, including school playing fields, and small areas of recreational and amenity open space, not individually identified on the LDP Maps, shall not accord with the LDP unless the following criteria can be satisfied:

1. Where the proposed development is for an outdoor recreation or physical activity use, it will:

(a) improve the quality and range of outdoor recreation or physical activity facilities within the LDP area; AND

(b) not lead to an unacceptable net loss of open space (including playing fields); OR

2. Where the proposed development is for a use other than outdoor recreational or physical activity purposes, it will not set an undesirable precedent for further incremental loss of open space.

The following criteria apply to all proposals for development of open space:

3. The proposed development will not unacceptably impact upon the recreational and/or amenity value of any area of active or passive open space when considered in relation to the overall level of provision in the local area; AND

4. Where the loss of open space has a material effect on the quality, function or playing capacity of a facility, alternative provision of similar or improved community benefit and accessibility will be made available in a location which is convenient for its users.

Note: There is a presumption against the extension of private gardens into public open space or the development of communal/backcourt areas for reasons of undesirable precedent setting as well as the potential for creation of irregular boundaries and loss of access and amenity.

## General Policy GENERAL POLICY

### (a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.

- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.

- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.

- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.

- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas.

Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.

- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.

- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering,

health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

#### g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

#### h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

#### i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

## **2. Consultations and Representations**

Neighbour notification was carried out for this application in accordance with statutory procedures. No representations were received in response to the application. No consultations required to be undertaken.

## **3. Analysis**

The application requires to be assessed against Policy ENV 12 (Development of Open Space) and criterion (a) siting, design, and external appearance and (b) amenity of the General Policy contained within the LDP. Considering the requirements of these policies, the proposal will be assessed below.

The open space in question contains several trees and other greenery as part of an established tree line along the public footpath and rear boundaries of the residential properties of Ladyburn Court. As such, it is considered that the open space does contribute to the amenity value of the area. The application form states that no trees are proposed to be removed but that work to trees, shrubs or hedges is proposed. However, no details of tree works were included in the application. It is not considered that the proposal would set an undesirable precedent, as given the retention of the trees, there would not be an unacceptable impact upon the recreational and amenity value of the area. If Planning Permission is approved, a condition could require that prior to the commencement of the development, the applicant shall submit details of any proposed tree works for the written approval of North Ayrshire Council as Planning Authority. Therefore, the proposal meets the requirements of Policy ENV 12.

Located along the south east boundary of the property, the 1.8m high fence which would bound the incorporated land and would consist of dark green coloured timber with concrete posts, which is acceptable. There would be no adverse impact on the site or surrounding area and the proposal satisfies criterion (a) of the General Policy.

In terms of (b) it is not considered that the proposed fence or loss of open space would have any adverse impact on the amenity of the area.

It was considered in the Committee Report in 2005 (ref. 05/00102/PP) that for visual reasons an amendment to the site boundaries of the requested area to a triangular shape would be less intrusive. This application seeks planning permission for the change of use of a smaller area of land which is considerably less intrusive than the previous proposal.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

Given the above observations, the proposal complies with the relevant policies of the LDP and there are no other material considerations to indicate otherwise. Therefore, planning permission should be granted subject to the condition as noted above.

#### **4. Full Recommendation**

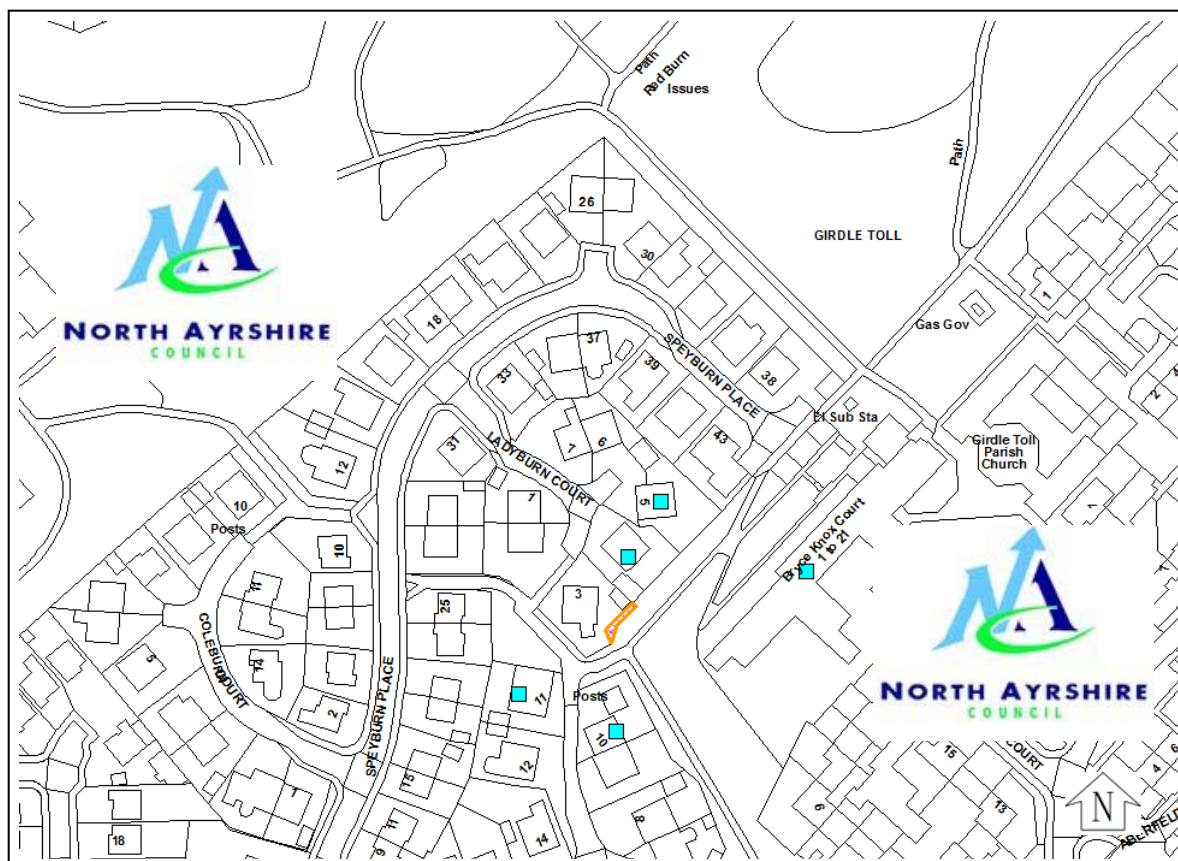
Approved with no Conditions

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Joe Thompson Assistant Planning Officer on 01294 324313.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	Arran
Reference	19/00573/ALO
Application Registered	30th July 2019
Decision Due	30th September 2019
Ward	Ardrossan And Arran

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<b>Recommendation</b>	Approved with no Conditions
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<b>Location</b>	Clauchlands Cottage No 3 Clauchlands Road Lamlash Brodict Isle Of Arran KA27 8LH
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<b>Applicant</b>	A & A Reid Fao Mrs Ann Reid
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<b>Proposal</b>	Removal of Section 75 obligation attached to planning permission 08/00918/PP to remove occupancy restriction
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### 1. Description

An application has been made in terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 to remove a legal obligation that was entered in to under Section 75 of the Town and Country Planning (Scotland) Act 1997. The obligation was in relation to an occupancy restriction.

An application for planning permission for a detached dwellinghouse for an agricultural worker (ref: 08/00918/PP) was approved by the Planning Committee on 24th February 2009, subject to a Section 75 obligation and conditions. The planning permission was subsequently issued on 14th January 2010 following the signing of a legal agreement which stipulated that the house must be occupied only by a person either currently or last employed locally in agriculture, or in forestry, or their dependants, or a widow or widower of such a person.

Clauchlands Farm is sited 1km north east of the settlement of Lamlash. The detached single storey dwellinghouse is sited approximately 50m south east of the main farmyard grouping and a similar distance to the north east of a similar house built by the original

farmer, Alex Reid, in 2002 (01/00666/PP) when the operation of the farm was taken over by his son Stuart Reid, the current applicant. That house is subject to a similar agricultural occupancy agreement.

The three bedroom house is one and a half storeys high with two pitched roof dormers on the front roof and a front porch; has a footprint of 116m<sup>2</sup>; and is of traditional design and finishes. It has its own access track from the main farm access road which leads from Clauchlands Road. It has private curtilage of 575m<sup>2</sup> but is otherwise bounded by agricultural land within the farm.

The 2008 planning application was accompanied by supporting statements and labour reports indicating a requirement for an agricultural worker's house for the growing dairy farm business in light of the applicant nearing retiral age and requiring further workforce assistance.

The applicants are the current farmer and his wife who have applied for discharge of the legal agreement on the following grounds:

- Changes in the business. The main part of the business is as a dairy farm supplier to the Torrylinn Creamery. Since the announcement by First Milk in July 2019 that the Creamery is to close in September, the dairy business will collapse, most of the herd will have to be sold and the staff will be made redundant as there is not enough other work on the farm;
- The house has been occupied by a farm worker of the business in line with the occupancy tie since it was applied in 2009. The applicant would like to offer the workers the chance to rent or buy the homes they have long lived in;
- If the occupancy tie remains, the house could not be occupied which would be uneconomical as any additional income is required to support the ongoing survival of the farm.

A copy of the letter from First Milk confirming closure of the Creamery and confirming the termination of the contract for the farm to supply milk was submitted with the application as evidence of the change in the business circumstances.

The application site is located within the countryside, as identified in the adopted North Ayrshire Local Development Plan ("the LDP") and is unaffected by any site specific policies or proposals therein. The relevant policy is ENV 2 (Housing Development in the Countryside). This allows that housing for workers engaged in an appropriate rural business (such as farming) shall accord with the LDP, subject to meeting a range of criteria, including a genuine operational need for a dwellinghouse.

## **2. Consultations and Representations**

Consultations were not required, the statutory neighbour notification procedures were followed and the application did not require to be advertised. No objections were received.

## **3. Analysis**

The proposal requires to be considered in terms of the adopted Local Development Plan policy ENV 2 and any other material planning considerations. Policy ENV 2 relates to the circumstances under which new housing in the countryside can be justified. It does not specifically address a change of circumstances such as has been presented in this case. The application seeks to discharge the occupancy restriction attached to the Section 75 and provides a supporting statement in relation to the justification for the removal of this restriction.

In terms of the removal of occupancy conditions, the following points can be considered to be material considerations:

- (i) The house has been occupied in association with the rural business against which it was justified;
- (ii) There have been significant developments in the dairy business outwith the applicants' control, i.e. the prospective loss of the main client, Arran Creamery.
- (iii) Retention of the occupancy restriction would cause difficulty for the applicants in achieving the required occupation of the house;
- (iv) SPP (Scottish Planning Policy 2014) has indicated a shifting policy in regards to the use of occupancy conditions since the time of the original approval.

Requests to remove such occupancy restrictions should normally take into consideration: the time passed since the original restriction was imposed; the change in circumstances given as justification; consideration of any risks associated with removal of the restriction; difficulties caused by retention of the restriction, e.g. mortgage borrowing; and that the house is suitably sited and designed and provides a reasonable level of residential amenity.

The house was granted in 2008 and was justified against the needs of the business, with the expected retirement of the farmer at the time and the passing of the running of the farm to his son. The expected changes took place and the house has been occupied by a worker of the farm and his family for the ten years since it was built. It is therefore accepted that the house has been occupied in line with the agreement for a sufficiently long period following the imposition of the occupancy restriction.

The supporting statement outlines the significant impact on the farm business of the closure of its main client, Arran Creamery and advises that the changes in the dairy business necessitate a reduction in the farm workforce to where the accommodation is no longer required by the business. Evidence of the termination of the milk supply agreement with First Milk was submitted in support of the application. In pre-application discussions, the applicants advised that there is unlikely to be identified any replacement arrangement on a similar scale, and note that the Creamery was first put on the market a couple of years ago.

The applicants have previously gained planning permissions for several holiday let units on the farm to supplement its income (ref. 06/00498/PP and 19/00019/PP) but intend to offer this house to its current occupants for sale or rent as it would not be economically feasible for the survival of the farm business to allow it be un-occupied for periods of time.

In terms of siting and amenity, the house provides a good level of residential amenity and outlook. It is 50m from the original farmer's 2002 house across intervening hedgerows and does not impact on its privacy or residential amenity. The house can be accessed independently of the working farm and the siting is acceptable. It is also noted that the Chief Planner's most recent advice on the desirability of avoiding occupancy restrictions, other

than to guard against identified impacts on road safety, amenity etc. is a material planning consideration.

Taking all of these factors into consideration, it is considered that there is no longer a requirement to retain the occupancy restriction. It is therefore recommended that the occupancy restriction be removed, and the associated Section 75 agreement be discharged.

#### **4. Full Recommendation**

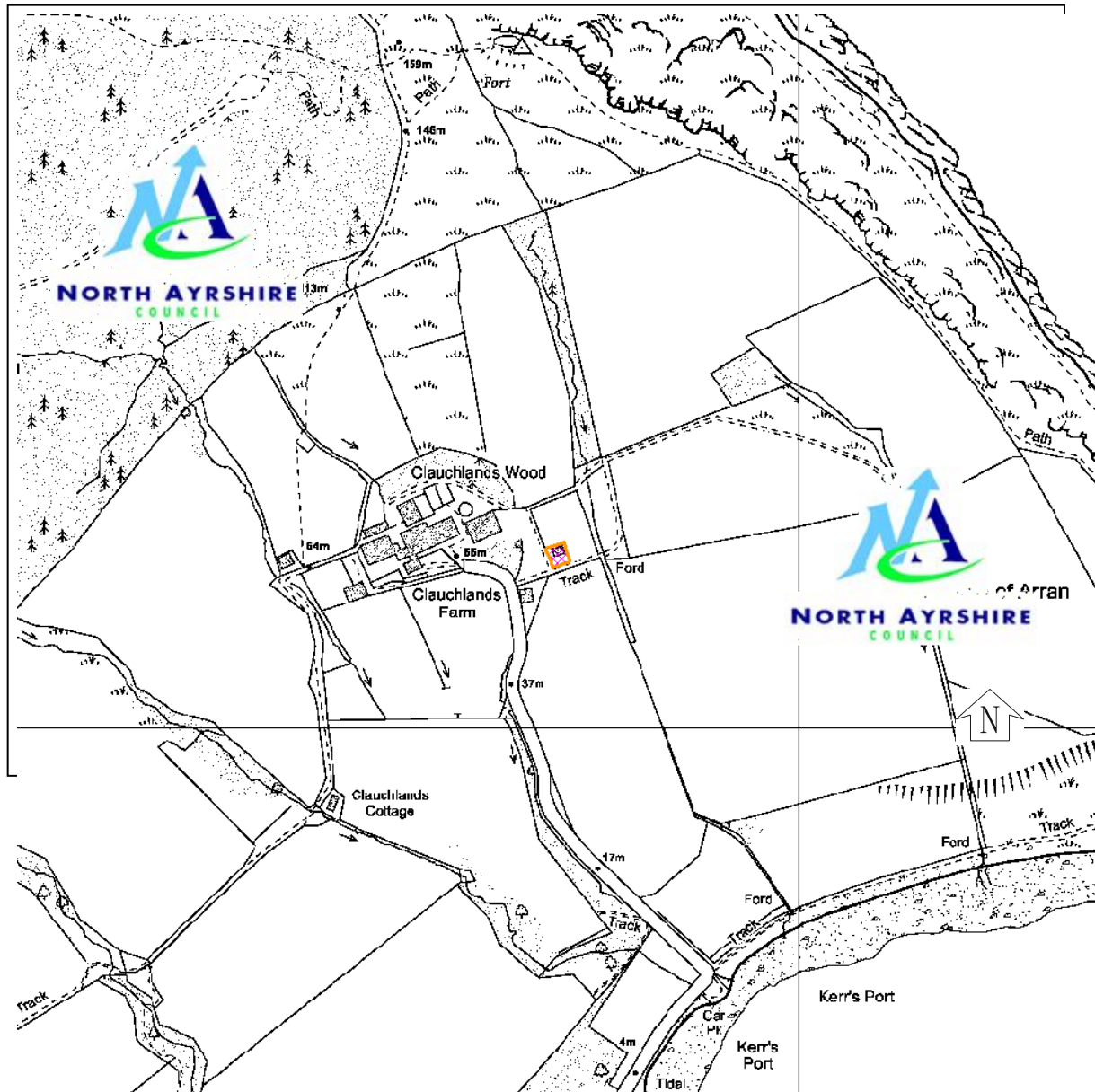
Approved with no Conditions

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Neil McAteer Planning Officer on 01294 324316.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

4th September 2019

### Planning Committee

Locality	
Reference	19/00351/PPPM
Application Registered	15th May 2019
Decision Due	15th September 2019
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Site To South Of 128-130 Meadowfoot Road West Kilbride Ayrshire
<b>Applicant</b>	Gladman Developments Ltd
<b>Proposal</b>	Planning Permission in Principle for residential development

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### 1. Description

Planning permission in principle is sought for residential development of an area of land to the south of Meadowfoot Road and west of Ardrossan High Road, West Kilbride. The land is some 3.023hecatres in area. The land is bounded to the north by Meadowfoot Road and properties on that road, to the west by the Largs/Kilwinning railway line and agricultural land, to the east by Ardrossan High Road and to the south by agricultural land.

The site forms part of a larger area of some 3.126hectares of land allocated as suitable for residential in the Local Development Plan (LDP) adopted 2014 and the proposed Local Development Plan (LDP2). The larger area comprises 2.93hectares of residential development allocation and 0.196hectares of settlement. However, only some 2.726hectares of the application site is within the allocated residential area and settlement, with the other 0.297hectares forming two parcels of land allocated as the countryside. The applicant states that this proposal is based on the most developable land within the applicant's control and results in a net reduction in the allocated site area.

Planning permission was previously sought for a larger area of 5.44hectares (ref: 18/00340/PPM). This application was refused on the 23rd May 2018 as contrary to the policies of the LDP. An appeal against that decision was dismissed by the Scottish Government's Planning and Environmental Appeals Division 23rd May 2019.

The application falls within the category of "major" development, in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. A pre-application consultation (PAC) was required and a PAC notice was received 21st November 2018 (ref: 18/01042/PREAPM).

Pre-application consultation documents, and some documents submitted as part of this application, refer to an indicative capacity for 50 houses, with 25% affordable. Other documents submitted refer to 45 houses. An indicative plan was produced.

For the avoidance of doubt reference to 45/50 houses and any layouts are indicative only and would not be permitted should planning permission in principle be granted. Further planning permission applications with specific details of any layouts, design, house number etc. would be required to be submitted and approved before development could commence.

The proposal was screened in accordance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 on the 8th February 2018 and 13th May 2019 (ref: 18/00107/EIA and 19/00365/EIA). On both occasions the Council, as Planning Authority, adopted the screening opinion that given the nature, scale and location of the proposed development, an Environmental Impact Assessment (EIA) would not be required.

In support of the application the following documents have been submitted:

#### PAC report

A public event was held at West Kilbride Village Hall on 7th March 2019 between 3pm and 7pm. The PAC report notes the pre-event publicity measures undertaken. The report notes around 40 members of the public attended the event. Three completed questionnaires were received. The responses, as well as verbal opinions received at the event, raised the following issues: need for additional housing, particularly affordable housing; concern over impact on school and doctor provision; and flooding issues. Considering the comments received the applicant states they reviewed all technical matters

#### Planning Statement

The planning statement summarises the planning background, making reference to the previous refusal and, then ongoing, appeal. The statement sets out the applicant's case that this site will result in a 0.1hectare net gain of countryside. The applicant is not seeking permission for 0.4hectares of allocated residential land at the southern end of the site and instead seek an 'infill' of approx. 0.3hectares in area at the western end to allow for a link to the plot of land to the west of 132 Meadowfoot Road, which is allocated as part of the settlement of West Kilbride. The statement assesses the proposal against Planning Advice Note 2/2010 and considers it to be an effective land supply.

#### Noise Appraisal

This appraisal is a desktop assessment of rail traffic noise given the proximity of the railway to the west of the site, which was prepared following discussions with NAC Environmental Health. The appraisal states that there are approx. 2 trains per hour along the line during daytime and 4 scheduled at night. The main train type is electric and also given and the low

numbers, it is not considered that rail traffic passing the site will give rise to significant levels of noise disturbance to future residents.

### Landscape and Visual Appraisal

The appraisal considers the potential landscape and visual impacts arising from the proposed development and summarises the methodology of assessment and context of the site. The assessment concludes that the scale and appearance of the proposed housing development will be consistent with that of existing parts of the settlement such as Meadowfoot and Law Hill. Mitigation, such as materials and styles to reflect local precedents, retention or reinstatement of appropriate boundary treatments and retained slopes where possible, is recommended at design stage to lessen any visual impact from development of the site.

### Flood Risk Assessment (FRA)

The FRA provides a review of the site layout, a walkover survey, catchment assessment, high level drainage assessment and survey of potential flood risk for the development site and surrounding area. The report concludes that there are no watercourses on site and it is not considered to be at risk of fluvial flooding. There is a small area at the south-western boundary of the site considered to be at risk of pluvial flooding. However, a surface water drainage system could be employed to ensure the risk of such flooding is adequately managed.

### Phase 1 Geo-Environmental Study

The survey provides a summary of any former contaminative uses, information on nearby groundwater and surface water courses, an indication of geological conditions, recognition of any historical pollution incidents, identifies possible presence and assesses potential risks of contamination and historic mine/quarry workings. The report states that research indicates that there is low risk that the site is potentially impacted by contamination relating to historical activities both on-site and the surrounding area, which would require further investigations, and advice on potential further investigations is given.

### Engineering Assessment and Drainage Report

This report assesses the potential engineering and drainage requirements for any development of the site, and concludes that the topography does not present a constraint to development, there is a foul water connection near the site, flooding does not pose a constraint, there does not appear to be any historical mining constraints and contamination is unlikely.

### Ecological Constraints and Opportunities Plan (ECOP) and Ecological Surveys Feb 2018 and April 2019

This report states that there are no protected or notable species on the site. The site consists of improved grassland with scattered scrub and bordered by hedgerow, walls and fencing. The site has been resurveyed with the most recent in April 2019. Mitigation measures suggested for any development include retaining and enhancing hedgerow habitat where possible, pre-works check for protected species. Enhancement measures for any development are also suggested.

## Economic Impact Note

This note provides an indicative statement of the socio-economic baseline of West Kilbride, including consideration of population, employment profile and household expenditure. It presents a high-level statement on the economic impacts from the proposed development, both from its construction and when built such as additional retail expenditure and council tax receipts. It states that the development would impact positively on North Ayrshire in the long term and during construction.

## Design and Access Statement

This statement sets out an appraisal of the site and its context. It explains the design rationale behind the proposals. However, it is largely based upon a layout for 45/50 houses which would require to be agreed as part of any future planning permission should this application be granted.

## Air Quality Assessment

This desktop assessment of air quality was prepared following discussions with NAC Environmental Health. The assessment states that the site is not in, or close to, an area of poor air quality. The background levels for each pollutant is well below the relevant objective levels. It is considered unlikely the proposal would lead to any changes that would trigger the requirement for full air quality impact assessment.

## Transport Statement

This statement sets out the proximity of public transport, walking and cycling routes to the site. It also provides an estimated potential trip generation both through active travel and by private vehicle. However, this estimate is based on 45/50 dwellings which would require to be agreed through subsequent planning applications. The statement considers that the development would generate a relatively low number of trips and any subsequent detailed planning application would not require detailed analysis of road junction capacity.

The Town and Country Planning (Scotland) Act 1997 states that when determining planning applications regard shall be had to the provisions of the development plan, so far as material to the application, and to any other material considerations.

The relevant policies of the Local Development Plan adopted May 2014 (LDP) are RES1: Housing Allocation, RES2: Additional Housing Sites, RES4: Affordable Housing, ENV2: Housing Development in the Countryside, Policy ENV4: Farmland and the General Policy.

The relevant policies of the proposed Local Development Plan (LDP2), which has been examined by the Scottish Government 10th July 2019, and is due to be presented to full Council for adoption in September 2019 are Strategic Policy 1: Spatial Strategy; Strategic Policy 2: Placemaking; Policy 1: New Homes and Maintaining an Effective Housing Land Supply and Policy 15: Landscape and Seascape.

## 2. Consultations and Representations

Neighbour notification was carried out and the application was advertised. There have been a total of 27 objections and 1 representation received, which can be summarised as follows;

1. This application has only minimal changes to the previous application (ref: 18/00340/PPPM) which was refused. Submitting applications in a short period of time appears to be an attempt to make it difficult for local people to comment and should not be considered given the application history. There has been no material change in circumstances.

*Response: The Planning Acts allow for the submission of multiple planning applications for the same site. However, it is not considered that this proposal is the same site as the previous application, which was for an area of 5.44hectares. This application is for a site of 2.923hectares.*

2. There is no shortfall in the Council's supply of effective housing land. The proposal is contrary to RES1 of LDP as there is an adequate supply of land for houses. There are other sites within West Kilbride and North Ayrshire which are more suitable for development. The application is contrary to RES2 of LDP and equivalent policies in LDP2.

*Response: The supply of effective housing land has been assessed by the Scottish Government as part of the report on LDP2 (July 2019). The Scottish Government agreed with the Council's approach to housing supply, including the retention of sites from the LDP as additional housing allocations. It should also be noted that the Scottish Government's dismissal of the appeal for planning permission for the larger (5.44hectare) site in May 2019 concluded there was a housing supply shortfall. An assessment of this application against RES1 and RES2 of the LDP and the relevant policies in LDP2 is given below.*

3. The land is allocated for 30 houses and 45/50 houses on the site would be excessive. This steep hillside is unsuitable for development. The development would be visually overbearing.

*Response: The site has been assessed through the Local Development Plan process as suitable for residential development. The site has an indicative capacity in both LDP and LDP2 of 30 houses. However, this capacity is indicative only. The applicant has also submitted details relating to development of 45/50 houses. However, these are also indicative only and further detailed applications for planning permission would be required in terms of the number, location, design etc of any housing development on the site. It should be noted this proposal does not seek permission for the southern portion of the allocated site, furthest up the hill.*

4. The nearby road system is not suitable. The proposed junction onto Ardrossan High Road is opposite Cubriesshaw Park, which is a very narrow road and there would be blind bends close to the junction. Two junctions onto the site would not be suitable for Ardrossan High Road which is in poor condition and used by drivers at excessive speed. Hedgerows onto the road would be destroyed.

*Response: The proposal is for permission in principle only. Detailed permission would be required for any development of the site, including access. NAC Regeneration (Active Travel and Transport) offers no objection to this application. Advice is provided of the*

*requirements of any future detailed applications, including traffic calming. Details of landscaping, including hedgerows, would be required for any future detailed application.*

5. The current drainage cannot cope with heavy rainfall. Development of the site could exacerbate this concern and cause flooding to the road network. Extensive flood management engineering will be required making the houses prohibitively expensive. The ground is also unstable.

*Response: NAC Flooding and NAC Environmental Health offer no objections to the principle of development. Details of the information required in terms of flooding, drainage and site investigations would be required in any future application for detailed planning permission. The price of any future houses on the site is not a material planning consideration.*

6. The development will negatively impact upon the setting of the West Kilbride Conservation Area. The site is visible from locations within the Conservation Area. The 2013 Conservation Area appraisal states that Main Street benefits from picturesque views to the landscape beyond the village. Development of the site would set a precedent that designated conservation areas are of little value.

*Response: The majority of the site, approx. 90%, has been assessed through the Local Development Plan process as suitable for residential development. This proposal seeks permission for an area which does not extend as far (south) up Tarbert Hill as the site allocated in the LDP. It is not considered that any development would have an adverse impact on the Conservation Area or its setting. Whilst it may be possible to view parts of any potential development from the Conservation Area, it is considered that the primary character of the Conservation Area is as a historic town centre.*

7. There is no capacity in the local Primary School or nurseries for all the new development under consideration. There is no capacity in the doctor's surgery. There are no community facilities for teenagers. There is no parking capacity in the town, particularly at the train station or in the main street. The application is contrary to Criterion (g) of the General Policy as there is a lack of information to assess the application in terms of required contributions to local infrastructure.

*Response: This application is for the principle of residential development only, and has been assessed through the LDP process.*

8. The proposal is for unjustified development in the Countryside and contrary to Policy ENV2 and criterion (c) of the General Policy of the LDP. Tarbert Hill is a local landmark. The application will impact on wildlife. There will be a loss of agricultural land. Loss of greenspace will negatively impact on health and wellbeing of existing residents and tourism in North Ayrshire. The area is a Tree Preservation Order (TPO).

*Response: The proposal is considered in part to be contrary to Policy ENV2. An assessment of this matter is given below. Again, as the application is for permission in principle only, potential need for structure planting and the impact on landscape character, as set out in Criterion (c), would be considered through further detailed applications for planning permission should permission in principle be granted. An assessment of the proposal against the General Policy is given below. This proposal seeks permission for an area which does not extend as far up (south) Tarbert Hill as is allocated in the LDP and LDP2 as suitable for housing.*

*The applicant has submitted an Ecological Constraints and Opportunities Plan (ECOP) and Ecological Surveys dated February 2018 and April 2019. No protected or notable species on the site have been identified. Mitigation measures such as pre-work checks and planting to preserve or enhance the habitats at the edges of the site are suggested. Such measures could be required by condition to be submitted as part of any future application should permission in principle be granted.*

*The site is not classified as prime agricultural land as defined by the Macaulay Institute. It is also not considered that the development of the site for housing would have any significant impact on tourism or that the loss of the open space would negatively impact on the health and wellbeing of existing residents. The area is not covered by a TPO.*

9. The Council's housing needs assessment says no new houses are needed. Why is this ignored? The proposal is also contrary to policies within LDP2 and the Scottish Government's Scottish Planning Policy (SPP).

*Response: The site was allocated in LDP1. The Council's housing needs assessment was undertaken in preparation of LDP2. The Council chose to allocate additional housing sites to seek to stimulate economic growth. This approach has been accepted by the Scottish Government's report into the LDP2. LDP2 has been prepared in accordance with SPP. SPP makes clear that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. An assessment of this specific application against LDP2 policies is given below.*

10. There is no need for large 'executive' type houses in West Kilbride. Affordable housing is required; however, this aspect has been removed from the LDP. Attempts to make people walk or cycle are impracticable given the distances.

*Response: The applicant has provided indicative information relating to detached houses. However, this information is indicative only and the actual size, design etc would require to be assessed through a further application. Most of the site is identified in the LDP for market housing. LDP2 has no requirement for any affordable housing contributions. The Scottish Government's report into LDP2 has supported this approach, which is in part due to affordable housing need being more than met by the Council's Strategic Housing Investment Plan. Details of active travel links would again be the subject of any further application. It is considered desirable to provide such links. The town centre and train station are approx. 900m from the site.*

11. There are inaccuracies in the documents with 'Theoretical Views' being selectively chosen and montages giving misleading impressions. Issues of overshadowing, overlooking, privacy, noise, including from construction etc have not been considered.

*Response: The 'Theoretical Views' relate to the indicative details of 45/50 houses on the site. As stated previously such details do not form part of this application and further permission would have to be sought to establish siting, design etc. The site for which permission is being sought is smaller and does not extend as far to the south, and therefore not as far up Tarbert Hill, as the area allocated in the LDP and LDP2 for housing. The issue of overshadowing etc would be matters for future applications for detailed planning permission. Noise from construction would not necessarily be a material consideration and acute noise disturbance can be investigated by Environmental Health under its powers.*

## Representation

1. The neighbour notification should have covered all of Cubrieshaw Park. Most local people are unaware of the proposal.

Response: *Neighbour notification was carried out in accordance with statutory requirements. The application was also advertised in the local press.*

## Consultations

**West Kilbride Community Council** - Concerned the applicant has increased the site area from 2.93hectares to 2.97hectares. The applicant is also proposing 45/50 houses where the May 2014 LDP had a capacity of 30 which is an unacceptable residential density. The application proposes to discharge foul water to the existing sewerage system which is nearing capacity. The drainage of the SUDs area into Kilbride Burn would require monitoring as this is also at capacity.

Response: *The assessment of area is not agreed, which appears to discount the area of land to the west of No. 132 Meadowfoot Road, which is both allocated in LDP2 and the May 2014 LDP as part of the settlement of West Kilbride. The area being sought is smaller than the land allocated as suitable for residential in both the LDP and LDP2. Clarification from the applicant was sought. The applicant has advised that permission is sought for 2.53hectares of residential allocation, 0.196hectares of settlement allocation (the land to west of No. 132), and 0.297hectares of countryside. The areas of land can be summarised as follows:*

- |   |  |               |
|---|--|---------------|
| 1 | Land allocated as within settlement  | 0.196hectares |
| 2 | Land allocated for additional housing  | 2.930hectares |
| 3 | Total area of land suitable in principle for residential development (1 + 2) | 3.126hectares |
| 4 | Land allocated for additional housing for which permission is not sought     | 0.400hectares |
| 5 | Countryside  | 0.297hectares |
| 6 | This application site total area is  | 3.023hectares |

*Housing numbers, both in this application and in the Local Development Plans are indicative only. The exact layout and number of units would be the subject of further detailed applications for planning permission. Scottish Water and NAC Flooding have been consulted and their comments are below.*

**Scottish Water** - No objections.

Response: Noted

**NAC Flooding** - No objection to the principle of a residential development at the site. A full planning application should meet certain conditions. Such an application must demonstrate drainage proposals have been designed for exceedance i.e. 200 year critical storm event + climate change. Details of overland flow-paths, 'additional' attenuation measures, control devices etc and demonstration that access/egress will be maintained must be provided. A Drainage Impact Assessment must be provided including a land drainage strategy. Full details of parties responsible for maintenance including implementation should be provided.

Response: *Noted. A condition could be attached to any permission requiring such details as part of any future application for full permission.*

**NAC Regeneration (Active Travel and Transport)** - No objections. Any permission should be subject to conditions that vehicular access should be via Ardrossan High Road. No vehicular access, except for potential SUDs maintenance, to be from Meadowfoot Road. Traffic calming measures should be provided along the length of any Ardrossan High Road frontage and that road to be widened to a minimum of 5.5m and a linking 2m wide footway along the frontage. Any access should have a visibility splay of 2.5m by 70m in both directions and no item with a height greater than 1.05m above the adjacent carriageway to be located within the sightlines. Internal street layouts to be designed in accordance with Designing Streets principles, including layouts to restrict speeds to no greater than 20mph.

Response: *Noted. Conditions could be attached to any permission requiring such details as part of any future application for full permission.*

**NAC Environmental Health** - No objections. Any permission to be subject to conditions. Prior to the commencement of the development the applicants shall undertake an appropriate site investigation and subsequent suitable quantitative risk assessment, taking cognisance of the Conclusions and Recommendation on Development contained within Section 6 of the Phase 1 Geo-Environmental Desk Study Report, submitted in support of this application, Project Reference No P17/378, by Mason Evans and dated May 2019. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted. Environmental Health also give advice as to how any specific development should be carried out to minimise disturbance.

Response: *Noted. A condition requiring contamination investigation, along with remediation proposals as appropriate, could be attached to any permission. The specific advice on development is noted and has been passed to the applicant. However, as this is for permission in principle the specific methods of building are not relevant as no detailed permission has been granted. In any event Environmental Health have the power to control any such impacts under their own legislation, regardless of whether planning permission is required.*

**West of Scotland Archaeology Service (WoSAS)** - No objections. Any permission should be subject to a condition requiring the implementation of a programme of archaeological works in accordance with a written scheme of investigation to be agreed by WoSAS and approved by the Planning Authority.

Response: *Noted. Such a condition could be attached to any planning permission.*

### **3. Analysis**

As noted above planning permission in principle is sought for an area of some 3.023hectares. Of this 0.196hectares is within the settlement of West Kilbride and 2.930hectares is in an area allocated for housing development. The other 0.297hectares, or 9.8% of the application site, is in areas identified in the LDP and LDP2 as Countryside.

In respect of the part of the site within West Kilbride, Policy RES1 of the LDP states that proposals for residential development within settlements shall accord with the LDP. In respect of the part of the site allocated as an additional housing site, Policy RES2 of the LDP states that such sites are allocated for market housing, which is essentially re-iterated in Strategic Policy 1 and Policy 1 of LDP2. The principle of development for residential purposes of 90.2% of the site is therefore acceptable. The principle on the remaining 9.8% is contrary to the Local Development Plan, as outlined below. However, is not considered that the overall proposal is significantly contrary to the LDP.

Policy ENV2: Housing Development in the Countryside sets out the criteria under which housing development in the countryside will be supported, which includes single houses in rural areas, small scale growth of existing rural groups and housing for workers engaged in a rural business. The proposal does not meet the criteria set out in that policy as an edge of settlement site. As stated above the proposal is therefore contrary to Policy ENV2 of the LDP.

Strategic Policy 1 of LDP2 also states that in principle proposals outwith towns will be supported for sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion. As detailed above, the proposed site forms part of a larger area allocated for housing. The applicant sees the proposal as a more viable development area. The proposal does not include an area of some 0.4hectares at the southern end of the site, but includes an area of 0.13hectares bounded to the east and west by allocated housing land and for an area of 0.167hectares bounded to the east by allocated housing land and the north by the settlement of West Kilbride.

The Scottish Government Reporter, as noted above, concluded that the southern boundary of the allocated housing site was 'somewhat arbitrary,' and it is not clear on what basis the current outline of the housing site was based. It is considered that the areas of countryside for which permission is sought would consolidate and define a more defensible boundary for the southern edge of the settlement, particularly given the topography. Although the infilling is not between existing development, it is between the settlement and an allocated housing site and it is considered that the proposal accords with Strategic Policy 1 of LD2 in this respect.

Policy 15: Landscape and Seascape of LDP2 states that, where appropriate, development should take into consideration impacts on local landscape features including settlement setting and natural features of interest. As outlined above approx. 90% of the application site is within areas allocated as settlement or additional residential development. The larger area allocated as suitable for residential development extends approx. 35m further to the south, on the slopes of Tarbert Hill. Given the allocated area and that the application site does not extend as far onto the natural feature of interest, it is considered that the principle of residential development does not have any adverse impact on either the setting of the settlement, or Tarbert Hill. The impact from any detailed residential proposals would be considered as part of future applications. A condition could be attached to any permission in

principle requiring a scheme of archaeological investigation. The proposal therefore accords with Policy 15 of LDP2.

The land is currently farmland, classified by the Macaulay Institute as Class 4.1, land capable of producing a narrow range of crops. Policy ENV4 of the LDP states that proposals for development which would lead to the permanent loss of prime quality farmland shall not accord with the LDP. Prime quality is defined as Class 1, 2 and 3.1 of the Macaulay Institute classifications. The site is therefore not considered to be prime agricultural land and its development would not conflict with Policy ENV4 of the LDP.

Policy RES4: Affordable Housing of the LDP states that development of allocated housing sites in the North Coast Area will be subject to the requirements of affordable housing. The contributions will be at 25% for the North Coast Area. As this application is for the principle of development only, a condition could be attached to any permission requiring details of affordable housing provision. Any future applications would have affordable housing assessed against the relevant Local Development Plan which would likely be LDP2. LDP2 does not require any affordable housing contributions. The proposal is considered to accord with Policy RES4 of the LDP.

The siting, design and external appearance of any specific development of the site would be considered as part of any further detailed planning applications. A condition could be attached to any permission in principle requiring such details to be submitted. Amenity impacts both within the site and on neighbouring properties would also be fully considered through such applications. Air quality and noise impact assessments have been submitted as part of this application and NAC Environmental Health has no objections. A condition could be added to any permission in principle requiring ground investigation in accordance with Environmental Health's requirement, and also a condition in respect of drainage.

The access, road layout and parking provision of any specific development would be considered as a part of any further detailed planning applications. NAC Regeneration (Active Travel and Transport) has provided details of the requirements which could be addressed by condition. The site has been assessed as a suitable location in terms of access to public transport and other networks and the areas of countryside for which permission is sought are not further away from these networks than the allocated site. Any detailed planning applications would also be assessed in terms of landscaping provision in the context of an edge of settlement site. Any infrastructure contributions, if required, would be assessed in the context of the specific number of residential properties sought through detailed planning applications. The proposal is therefore considered to accord with the General Policy of the LDP and Strategic Policy 2 of LDP2.

The proposal is held to be contrary Policy ENV2 of the LDP. However, it is also held to accord with the other policies of the LDP and the policies of LDP2. Given its advance stage it is considered that LDP2 is a material consideration with significant weight in the determination process. Accordingly, the application should be approved subject to the conditions referred to in this report.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

**Condition**

1. That the approval of North Ayrshire Council as Planning Authority with regard to the siting, design and external appearance of, landscaping, means of access to the proposed development and affordable housing contribution, shall be obtained before the development is commenced.

**Reason**

In order that these matters can be considered in detail.

**Condition**

2. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a written scheme of investigation for a programme of archeological works. Any scheme as may be approved by the Council, as Planning Authority.

**Reason**

In recognition of the potential archaeological interest of the site and to meet the requirements of the West of Scotland Archaeology Service.

**Condition**

3. That further application(s) for approval under the terms of Condition 1 shall include a report of an appropriate site investigation and subsequent suitable quantitative risk assessment, taking cognisance of the Conclusions and Recommendation on Development contained within Section 6 of the Phase 1 Geo-Environmental Desk Study Report, submitted in support of this application, Project Reference No P17/378, by Mason Evans and dated May 2019. Any submitted report shall have been verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To ensure proper consideration of potential contamination and remediation measures.

**Condition**

4. That further application(s) for approval under the terms of Condition 1 shall include details of access, road layout and parking provision. For the avoidance of doubt access for residential properties shall be from Ardrossan High Road only. Details of road widening and footways for Ardrossan High Road shall be provided. Any access shall have a visibility splay of 2.5m by 70m. Internal layouts shall be designed in accordance with Designing Streets principles.

**Reason**

To ensure appropriate access and site layout in accordance with the requirements of the Council, as Roads Authority.

**Condition**

5. That further application(s) for approval under the terms of Condition 1 shall include details of drainage which have been designed for exceedance i.e. 200 year critical storm event + climate change. Details of overland flow-paths, 'additional' attenuation measures, control devices etc and demonstration that access/egress will be maintained must be

provided. A Drainage Impact Assessment must be provided including a land drainage strategy and details of implementation and maintenance.

**Reason**

To ensure appropriate consideration of drainage in accordance with the requirements of the Council's Flooding Officer.

**Condition**

6. That further application(s) for approval under the terms of Condition 1 shall include a dated Protected Species Survey updating the survey by EnviroCentre dated 24th April 2019 and submitted as part of this application.

**Reason**

To ensure proper consideration of the ecology of the site, in recognition of the potential for species movement.

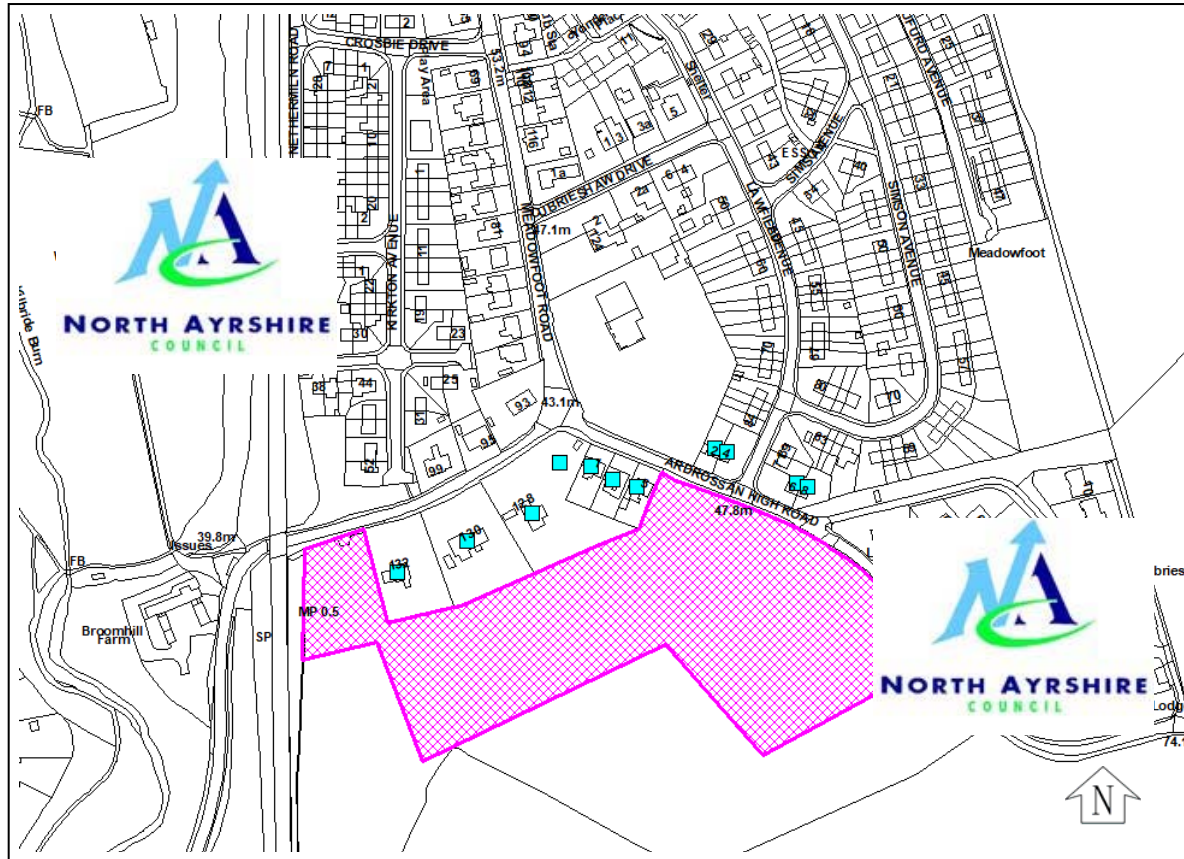
A handwritten signature in black ink, appearing to read 'RMh' with a stylized flourish at the end.

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Iain Davies, Senior Development Management Officer on 01294 324320.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	North Coast and Cumbraes
Reference	19/00506/PP
Application Registered	4th July 2019
Decision Due	4th September 2019
Ward	North Coast And Cumbraes

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Site To East Of Castlepark Gardens Fairlie Largs Ayrshire
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<b>Applicant</b>	Dawn Homes Ltd
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<b>Proposal</b>	Application to vary Planning Condition number 4 of 18/00659/PP, to provide temporary shared-use path adjacent to plots 38, 39 & 46, in lieu of the permanent path proposed adjacent to plots 35, 36 & 37
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#### 1. Description

Planning permission is sought to vary a condition attached to permission 18/00659/PP. That permission, which in itself was an amendment to permission 17/00584/PPM, allowed the construction of 97 houses, subject to conditions.

Condition 4 of 18/00659/PP currently reads as follows:

4. That for the avoidance of doubt the proposed shared use path to Castlepark Gardens should be completed prior to the completion of plots 35, 36 and 37, as outlined within approved plan AL(0) 114, or no later than 12 months from the original planning consent, that being the 20th September 2018.

The reason for the condition was to ensure permeability through the site.

The path was not completed prior to the 20th September 2018. The Planning Committee was advised of this at the meeting of 26th September 2018. However, the Committee

resolved not to take any action as a temporary path had been installed on the western side of the plots.

The developer has advised of the due commencement of the construction of plots where the temporary path is sited, including plot 36. In the interests of safety, the temporary path requires to be closed for the duration of the works. This application therefore seeks to re-route the temporary path through the southern end of the access road of Fairlie Primary School, retaining a safe connection whilst the development commences. The re-routed path would be removed when the proposed shared use path, which passes between plots 35, 36, and 37, is formed.

The application site lies within the settlement of Fairlie, as identified by the adopted Local Development Plan. It is considered that the relevant policy of the LDP is the General Policy.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

## **Relevant Development Plan Policies**

### **General Policy GENERAL POLICY**

#### **(a) Siting, Design and External Appearance:**

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

#### **(b) Amenity:**

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

#### (c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

#### (d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

#### (e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

#### (f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

#### g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services,

facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

#### h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

#### i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

## **2. Consultations and Representations**

The application was subject to statutory neighbour notification procedures. There have been two objections received which can be summarised as follows;

1. The path through the primary school has already been formed. The planning system allows large development companies to do what they like. Why should companies be allowed to change plans once development has commenced?

Response: The Planning Acts allow for the submission of planning applications for retrospective works. Such applications can be made by anyone. The carrying out of development without planning permission is not an offence.

2. The large wall behind the houses on Castlepark Gardens is an unacceptable height. This was not in the original development plans. This will affect property sales.

Response: The wall does not form part of this application. The wall forms part of planning permission 18/00659/PP and is approved under Condition 5 of that permission. If permission is granted to vary Condition 4, all other conditions will remain part of any permission. The effect of development on property sales is not a material planning consideration.

### **3. Analysis**

The General Policy of the LDP states that the siting of development should have regard to the visual effects of the development on the surrounding area. Regard should be given to the impact on amenity of disturbance by reason of pedestrian traffic. Access on foot and by cycle should be an integral part of any significant development proposals.

The path would be approx. 2m wide and appear as a continuation of the pavement from Castlepark Gardens into the primary school grounds. The path would be contained within the development site and the school grounds. It would provide access for foot and cycle users between the completed houses to the north and the school and to the south. The path would run along side the northern boundary of the rear garden of No. 28 Castlepark Gardens for a distance of approx. 15m. The path is only sought for a temporary period and any amended condition could reflect this requirement. The current temporary path runs in proximity to the rear (east) gardens of properties on Castlepark Gardens.

Given the existing situation, the temporary nature of the path, and the desirability to retain permeability between the completed houses and the school and the rest of the village, it is considered that the proposal accords with the relevant criteria of the General Policy. It is therefore recommended that planning permission be granted subject to a variation of Condition 4.

### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That, within one month of the date of consent, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority:

- i) Details of a scheme to intercept surface water runoff from the higher ground to the east and routing into the drainage system;
- ii) Details of a cut off drain along the western boundary of the application site;
- iii) Details of proposed watercourse crossings which ensure that crossings have a better or neutral effect on flood risk and do not result in the elevation of land within the functional floodplain;
- iv) Details of proposed landscaping and safety of the SuDs pond as well as a programme for its completion/operation;

- v) Maintenance of existing water channels which enter and are contained within the site; and
- vi) The proposed programme for the installation of those flooding measures contained within this condition, and those approved with the application, as well as details of maintenance and factoring.

Such details as may be approved shall be completed in compliance with the proposed programme of implementation, agreed under (vi) above, and maintained permanently thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To meet the requirements of SEPA and NAC Flooding.

**Condition**

2. That within one month of the date of consent, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of hard and soft landscaping. The submitted scheme should include:

- i) details of proposed hard surfacing, including paths, roads, shared spaces, driveways and boundary treatments;
- ii) details of species and planting densities;
- iii) details of potential biodiversity, including habitat, improvements;
- iv) a programme of proposed implementation of the scheme; and,
- v) proposed maintenance programmes and factoring.

The soft landscaping details, which may be approved, shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.

**Reason**

In the interest of the amenity of the area.

**Condition**

3. That, within one month of the date of approval full details of proposed tree protection measures for the development shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall comply with the principles and practices contained in "BS 5837:2012 - Trees in relation to design, demolition and construction - Recommendations." Detailed plans indicating tree protection fencing to be erected, an Arboricultural Impact Assessment and an Arboricultural Method Statement shall be submitted for written approval. For the avoidance of doubt:

- i) that there shall be no treeworks undertaken within the Tree Preservation Order area, unless otherwise agreed in writing;

ii) all tree protection measures to be erected shall be maintained in a satisfactory condition for the duration of all engineering and construction operations, until the completion of the development.

The development shall be implemented only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To secure the preservation of trees in compliance with Section 159(a) of the Town and Country Planning (Scotland) Act 1997.

**Condition**

4. The temporary footpath link through the primary school grounds, as shown on approved drawing 3494 AL(0)119, shall be removed and the primary school grounds restored to their former condition on the completion of the proposed shared use path to Castlepark Gardens located between plots 35, 36 and 37. The shared use path shall be completed prior to the occupation of the dwellings on plots 35, 36 or 37 or no later than 12 months from the date of this permission.

**Reason**

In the interests of ensuring permeability through the site

**Condition**

5. That prior to the commencement of development on plots 26, 27, 28, 29, 34, 35, 36, 45 and 46, as illustrated in approved plan AL(0)114, details of proposed finished ground levels and finished floor levels, retaining walls, any raised terracing, garden slopes, boundary treatments shall be submitted on plans and section drawings for the written approval of North Ayrshire Council as Planning Authority. Such details as may be approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed in writing.

**Reason**

To ensure privacy within and adequate screening of the site.

**Condition**

6. That the measures identified within the Ecological Assessment 2017 by Nigel Rudd, approved under the original planning permission 17/00584/PPM shall be fully implemented within phase 2, to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

In the interests of protecting and improving ecology on the site.

**Condition**

7. That within one month of the date of approval details of the proposed equipped play area, which shall include the provision of at least 5 different types of play equipment, seating and unequipped play areas shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall include the proposed location of the play area, site levels, programme of installation, any means of enclosure, including gated points of access/exit, surface finish, litter bin provision, maintenance and management arrangements. Unless otherwise agreed in writing the approved play area facilities should be installed and operational no later than, or prior to, the occupation of plots 25 or 26 as

outlined within approved plan AL(0)114. The approved play area should be completed to the satisfaction of North Ayrshire Council as Planning Authority and maintained in perpetuity.

**Reason**

In order to ensure the development includes appropriate play facilities.

**Condition**

8. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

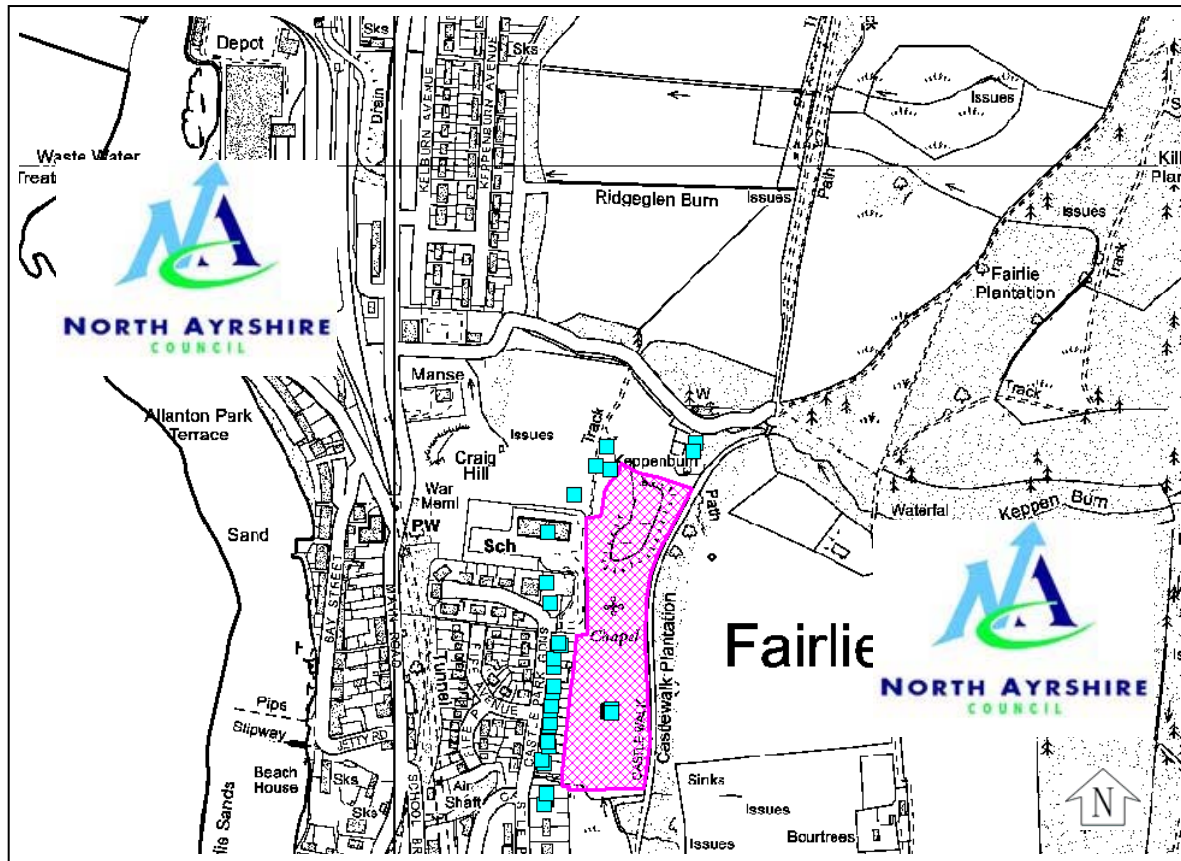
To meet the requirements of Environmental Health.

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

4th September 2019

### Planning Committee

Locality	North Coast and Cumbraes
Reference	19/00554/PP
Application Registered	30th July 2019
Decision Due	30th September 2019
Ward	North Coast And Cumbraes

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	48 Gallowgate Street Largs Ayrshire KA30 8LX
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<b>Applicant</b>	Stephen McDonald
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<b>Proposal</b>	Modification of condition 2 of 18/00518/PP to allow furniture to be stored in Gallowgate Square
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### 1. Description

Planning permission is sought to vary a condition attached to a Planning Permission (ref.18/00518/PP), granted by the Planning Committee at the meeting of 29th August 2018. That permission allowed the extension of an outdoor seating area in Gallowgate Square, to be used in association with the premises at 48 Gallowgate Street. Permission was also granted for the creation of other outdoor seating areas in Gallowgate Square, to be used by other properties in Gallowgate Street (ref: 18/00247/PP and 18/00327/PP).

Condition 2 of 18/00518/PP currently reads as follows:

2. That the maximum permitted hours of operation of the outdoor seating area shall be between 1100 and 2100 hours on any day unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority. The seating together with any tables, umbrellas, associated posts and barriers shall be removed from the square outwith these hours and at all times when the premises are closed to customers.

The reason for the condition was in the interests of amenity.

It is proposed to vary Condition 2 so that tables and chairs etc, can be stored in an area of Gallowgate Square when the outdoor seating area is not in use. A varied Condition 2 would read as follows:

2. That the maximum permitted hours of operation of the outdoor seating area shall be between 1100 and 2100 hours on any day unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority. The seating together with any tables, umbrellas, associated posts and barriers shall be removed from the approved seating area and stored against the wall of 48 Gallowgate Street, as shown on the approved location plan marked 'Seating Area - Option B,' outwith these hours and at all times when the premises are closed to customers. When stored against the wall, the seating etc. will be secured by a chain attached to the wall of 48 Gallowgate Street.

The area in which the seats etc would be stored is approx. 1m from the external wall of 48 Gallowgate Street by 5m in length.

The application site lies within the town centre of Largs as identified by the adopted Local Development Plan. It is considered that the relevant policies of the LDP are TC1: Town Centres and the General Policy.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

### **Relevant Planning History**

None.

## **2. Consultations and Representations**

The application was subject to statutory neighbour notification procedures. There have been no representations received.

## **3. Analysis**

Policy TC1 of the LDP states that a variety of uses, including public houses, will be acceptable in town centres. 48 Gallowgate Street has a lawful use as a public house. Permission 18/00518/PP allowed the extension of an existing seating area associated with the public house. The use of the area, with a varied condition, would therefore accord with Policy TC1.

The relevant criteria of the General Policy against which the proposal is to be assessed is (b) Amenity.

The condition currently requires the seats etc. to be removed from the square. This proposal seeks to allow them to be stored in the square. Storage would be against the applicant's property on land, on the northern side of the square, adjacent to the ramped access to the property. In order to provide security, the seats etc. would be secured by a chain attached to the wall of No. 48 Gallowgate Street.

The external seating in Gallowgate Square has been monitored in the year since the most recent permissions were granted. It is not considered that the use and any storage in the square has given rise to any adverse impacts on amenity.

Given the existing situation, other permissions for seating areas in the square, and the location and size of the storage area sought, it is considered that the proposal also accords with criterion (b) of the General Policy. It is therefore recommended that planning permission be granted for the use of seating area with a varied Condition 2.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the seating area shall at all times be enclosed by a suitably designed removable barrier, full details of which shall be submitted for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt no artificial lighting or individually sited heating systems shall be provided within the outdoor seating area.

##### **Reason**

In the interest of the amenity of the area.

##### **Condition**

2. That the maximum permitted hours of operation of the outdoor seating area shall be between 1100 and 2100 hours on any day unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority. The seating together with any tables, umbrellas, associated posts and barriers shall be removed from the approved seating area and stored against the wall of 48 Gallowgate Street, as shown on the approved location plan marked 'Seating Area - Option B,' outwith these hours and at all times when the premises are closed to customers. When stored against the wall, the seating etc. will be secured by a chain attached to the wall of 48 Gallowgate Street.

##### **Reason**

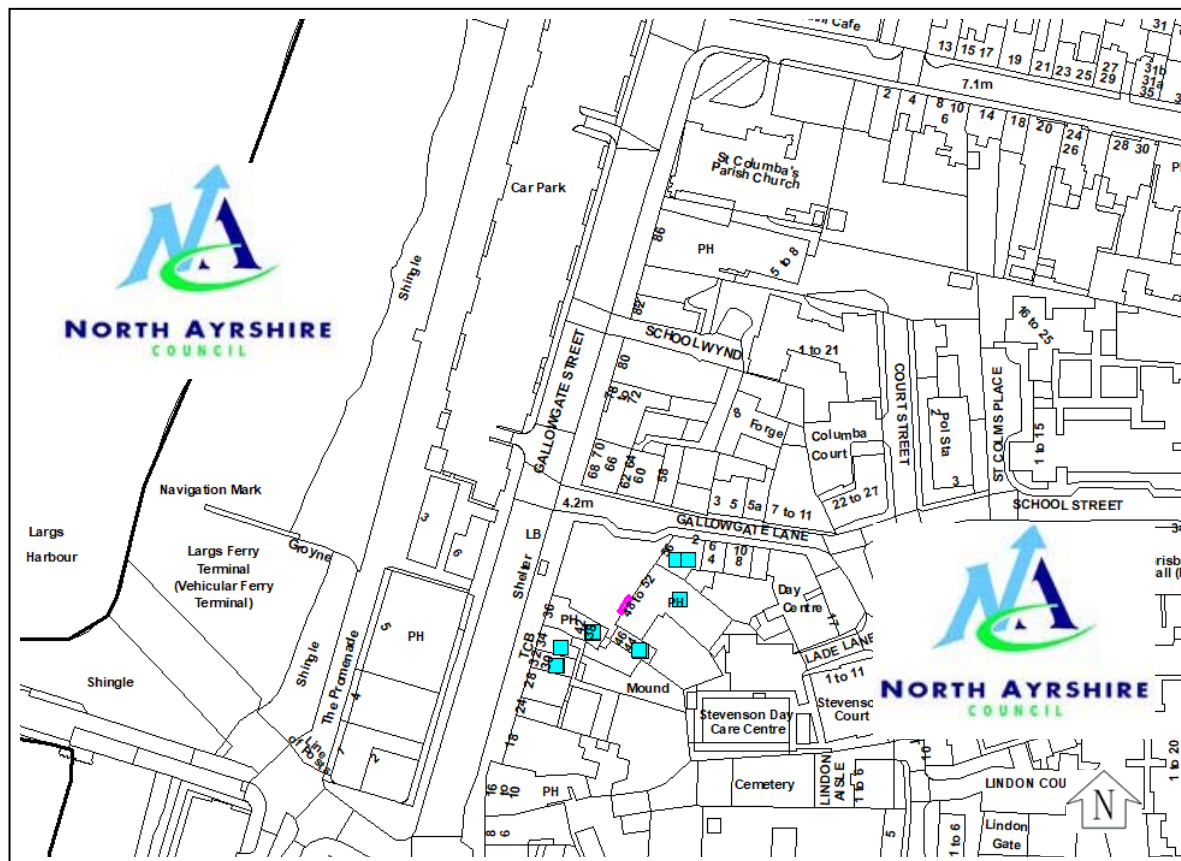
In the interest of the amenity of the area.

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

4 September 2019

### Planning Committee

<b>Title:</b>	<b>Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: former Seafield School, Eglinton Road, Ardrossan</b>
<b>Purpose:</b>	To seek approval to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area.
<b>Recommendation:</b>	That the Committee grants authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact on the land on the local area.

### 1. Executive Summary

- 1.1 This report recommends the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 ("Amenity Notice") in relation to the land at the former Seafield School, also known as Seafield House, Eglinton Road, Ardrossan. The site includes two Category B Listed Buildings known as Seafield House and Seafield Stables. An Amenity Notice allows the Council as Planning Authority to serve on the owner, lessee and occupier of the land, which is adversely affecting the amenity of any part of the area, a notice requiring steps to be taken to abate the adverse effect of the condition of the land.
- 1.2 Both Seafield House and Seafield Stables have been subject to vandalism and unauthorised entry. The windows in both properties have been smashed. Internal features have been smashed with some pulled outside the buildings with dumping having occurred in the property grounds. The owners have been instructed by the Council to board any smashed window and secure and make the buildings wind and water tight. They were also instructed to demolish modern extensions which had been built onto Seafield House. These extensions were demolished in the summer of 2017 with the rubble left on site. Seafield House, was the subject of a fire in 2017. This fire was largely contained in the eastern wing of the building. However, the roof of that section of the building has collapsed.
- 1.3 Although many windows have been boarded, not all have been, and smashed windows remain visible on both Seafield House and Seafield Stables. The demolition rubble is spread around Seafield House to both the east and west. There remains rubbish and refuse dumped within the grounds and mixed in with the rubble. Whilst the retention of

rubble on site for future development can be good practice, there is no imminent prospect of redevelopment of the site and the Council has requested that it be moved to north of the Stables to make it less prominent. The Council has also requested that all windows be boarded and that the rubbish and refuse be removed. To date these works have not been done.

- 1.4 The condition of the land is considered to have an adverse impact on amenity.

## **2. Background**

- 2.1 The site is a vacant former school site with vacant buildings within it. The two most prominent buildings within the site are Category B Listed Buildings. Primary access to the site is from Eglinton Road to the south. The land is identified in the Local Development Plan as part of the settlement of Ardrossan.
- 2.2 The site comprises an area of approximately 3.44 hectares. There are four buildings within the site. In the centre, the Category B Listed Building known as Seafield House. On the western edge of the site, the Category B Listed Building known as Seafield Stables. On the eastern edge of the site, a modern gymnasium building. In the northern corner is a building known as Seafield Cottage which was formerly the kennels of Seafield House.
- 2.3 The site was last used as a school but has been vacant since approximately June 2015. The gymnasium was granted planning permission in 2016 to be used as a health and fitness centre, separate from the wider site, and is currently in use as such. The site is within the settlement of Ardrossan in a prominent location on the western access to the town. The southern end of the site, between Seafield House and Eglinton Road is relatively flat, with the site rising to the north from behind Seafield House. There are residential properties to the east and west of the site.
- 2.4 The Council, as Planning Authority, has received several complaints regarding the site and has been monitoring the site since first receiving complaints in summer 2016. The property has also attracted anti-social behaviour. The owners were advised to demolish the modern extensions of Seafield House. This work was to provide less cover for unauthorised entry and provide better surveillance across the site. They were also advised to secure all door and window openings. They have been continuously advised to secure window and door openings when it has come to the Council's attention that the windows were unsecured.
- 2.5 The Council, as Planning Authority, has also been seeking development proposals from the owner to secure the long-term future of the site. The owners have stated that they would consider redevelopment for residential purposes. However, no plans have been forthcoming since Planning Officers first met them in April 2017.
- 2.6 Complaints about the site have continued to be received including a petition which was considered by the Audit and Scrutiny Committee at the meeting of 26<sup>th</sup> March 2019. The Audit and Scrutiny Committee resolved that the Council undertake certain actions in relation to the site. These actions included that the service of an Amenity Notice be considered, if the condition of the site continues to harm local amenity.
- 2.7 Following the meeting of the Audit and Scrutiny Committee, Planning Officers again both met with the owners and have written to them advising that the smashed

windows should be secured. They have also been advised to move the demolition rubble to the north of the Stables and clear the site of all other rubbish and refuse. To date the works have not been carried out. Whilst most windows are boarded, some remain uncovered, the rubble has not been moved and the rubbish and refuse remain on site. It was agreed with the owners that a follow-up meeting would be held to consider progress on the site. To date the owners have not responded to the Officer's request for this meeting.

- 2.8 Given the above, it is considered that the owner has been given adequate opportunity to alleviate the harm caused by the condition of the land. The required works have not been undertaken and the condition of the land continues to cause harm to local amenity.

### **3. Proposals**

- 3.1 The condition of the land is having a significant adverse impact upon the amenity of the area. The site is within a residential area and on a prominent main road in Ardrossan.
- 3.2 In the interest of the amenity of the area, it is recommended that Committee approves the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the following;
- (i) Remove all litter and refuse from the site;
  - (ii) Move all demolition rubble to the north of Seafield Stables. The rubble is to be stored so that it is not above the height of the boundary wall with Witches Lynn;
  - (iii) Board all windows and door openings in Seafield House and Seafield Stables, except for those openings on the first floor of the eastern wing of Seafield House. All openings to be boarded with exterior grade plywood or similar.
- 3.3 It is proposed that the owner would be given 6 weeks from the date of any Notice taking effect in which to carry out the requirements.

#### **4. Implications/Socio-economic Duty**

##### **Financial**

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps in order to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person(s) who was the then the owner or lessee any expenses reasonably incurred during the carrying out of these works. Cleansing has been made aware of the condition of the land and the possibility of the Council carrying out the works itself. The estimated cost of any works is to be advised.

##### **Human Resources**

- 4.2 None

##### **Legal**

- 4.3 The proposed Amenity Notice is in accordance with Statutory Regulations.

##### **Equality/Socio-economic**

- 4.4 None

##### **Environmental and Sustainability**

- 4.5 None

##### **Key Priorities**

- 4.6 The proposed Amenity Notice supports the Council Plan priority - "Vibrant, welcoming and attractive places,"

##### **Community Wealth Building**

- 4.7 Any direct action taken under the Planning Acts can support progressive procurement.

#### **5. Consultation**

- 5.1 Finance has been advised of the report in terms of its budgetary provision.



RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Iain Davies, Senior Development Management Officer**, on 01294 324320.

## Background Papers

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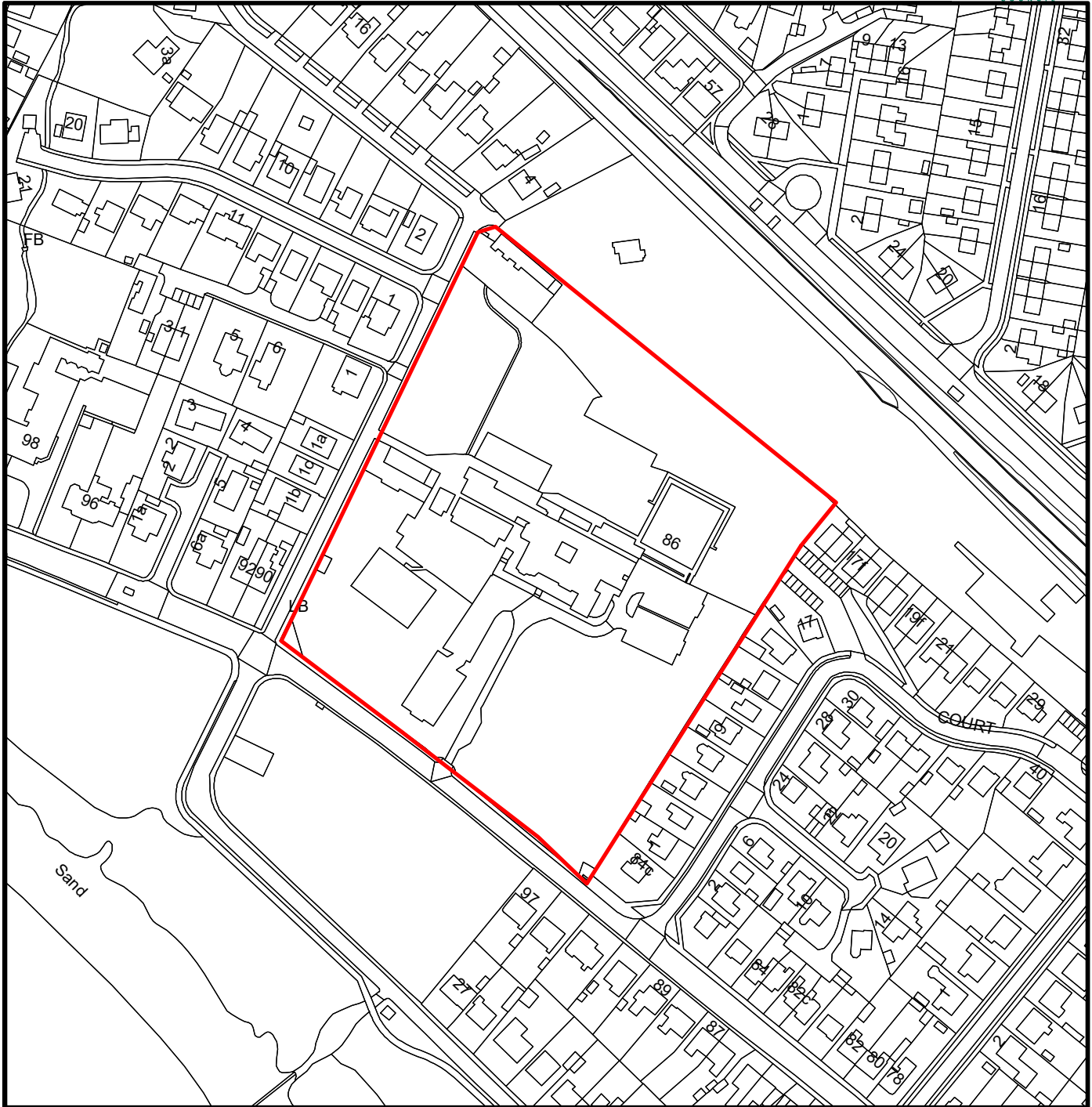


NORTH AYRSHIRE  
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# Former Seafield School, Eglinton Road, Ardrossan KA22 8NL



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COUNCIL



1:2,500

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## **NORTH AYRSHIRE COUNCIL**

**4 September 2019**

### **Planning Committee**

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<b>Title:</b>	<b>Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: Site of Former St Peter's Primary School, 24 South Crescent Road, Ardrossan.</b>
<b>Purpose:</b>	To seek approval to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area.
<b>Recommendation:</b>	That the Committee grants authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact on the land on the local area.

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### **1. Executive Summary**

- 1.1 This report recommends the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 ("Amenity Notice") in relation to the land at the site of the former St Peter's Primary School, 24 South Crescent Road, Ardrossan. A Amenity Notice allows the Council as Planning Authority to serve on the owner, lessee and occupier of the land, which is adversely affecting the amenity of any part of the area, a notice requiring steps to be taken to abate the adverse effect of the condition of the land
- 1.2 A fence had been erected on the southern frontage of the site. The fence is in a dilapidated condition and has collapsed entirely at its eastern end. The interior of the site is overgrown and there remains demolition rubble on site. The condition of the land due to the dilapidated condition of the fence and view to the overgrown rubble strewn interior which it provides has a significant adverse impact on the amenity of the local area.

### **2. Background**

- 2.1 The Council has received several complaints regarding the site. The owners have been requested in writing on several occasions since 2017, to re-instate the fence. No response has been received to recent correspondence in relation to this site. An inspection of the property on the 17<sup>th</sup> June 2019 revealed that the fence was in a dilapidated condition with panels in various states of disrepair and the eastern end of the fence having completely collapsed.

- 2.2 The site comprises a vacant plot of some 0.57hectares on the north side of South Crescent Road close to its junction with Burn Road. The former primary school building on the plot, which was a Category C Listed Building, was demolished in 2003. The site is within the settlement of Ardrossan, close to the boundary with Saltcoats. It is on a main thoroughfare between the two settlements. There are residential properties to the west and east with the Category B Listed Building, No. 26 South Crescent Road immediately adjacent. To the north is the railway line whilst to the south, across South Crescent Road, is open space with a public car park and the beach and shore beyond.
- 2.3 The site is in a prominent location on a main road between Ardrossan and Saltcoats. It is sited opposite the open amenity space on the southern side of South Crescent Road, near the beach, play park and a public car park. The area is well used both by locals and visitors to the town and is a key attraction within Ardrossan.
- 2.4 Given the above, it is considered that the condition of the site has an adverse impact on the area. It is in a prominent location within part of Ardrossan with a generally high level of amenity. It is also considered that the owners have been given adequate opportunity to alleviate the harm caused by the condition of the land. The required works have not been undertaken and the condition of the land continues to cause harm to local amenity.

### **3. Proposals**

- 3.1 The condition of the land is having a significant adverse impact upon the amenity of the area. The site is on a main road between Ardrossan and Saltcoats and in an area of otherwise high amenity due to the nearby recreation areas and beach. The site is visible from those areas and harms local amenity.
- 3.2 In the interest of the amenity of the area, it is recommended that Committee approves the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the following;
- (i) Reinststate the fence on the southern frontage of the site. Where the fence has collapsed, erect a 2m high timber panel fence of a design and colour to match the fence in situ (As shown in attached photograph).
  - (ii) Repair as necessary any damaged panels, finished to match the colour of the fence in situ (As shown in attached photograph).
- 3.3 It is proposed that the owner would be given 6 weeks from the date of any Notice taking effect in which to carry out the requirements.

#### **4. Implications/Socio-economic Duty**

##### **Financial**

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps in order to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person(s) who was the then the owner or lessee any expenses reasonably incurred during the carrying out of these works. NAC Cleansing has been made aware of the condition of the land and the possibility of the Council carrying out the works itself. The estimated cost of any works is to be advised.

##### **Human Resources**

- 4.2 None

##### **Legal**

- 4.3 The proposed Amenity Notice is in accordance with Statutory Regulations.

##### **Equality/Socio-economic**

- 4.4 None

##### **Environmental and Sustainability**

- 4.5 None

##### **Key Priorities**

- 4.6 The proposed Wasteland Notice supports the Council Plan priority – “Vibrant, welcoming and attractive places.”

##### **Community Wealth Building**

- 4.7 Any direct action taken under the Planning Acts can support progressive procurement.

#### **5. Consultation**

- 5.1 Finance has been advised of the report in terms of its budgetary provision



RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Iain Davies, Senior Development Management Officer**, on **01294 324 320**.

## **Background Papers**

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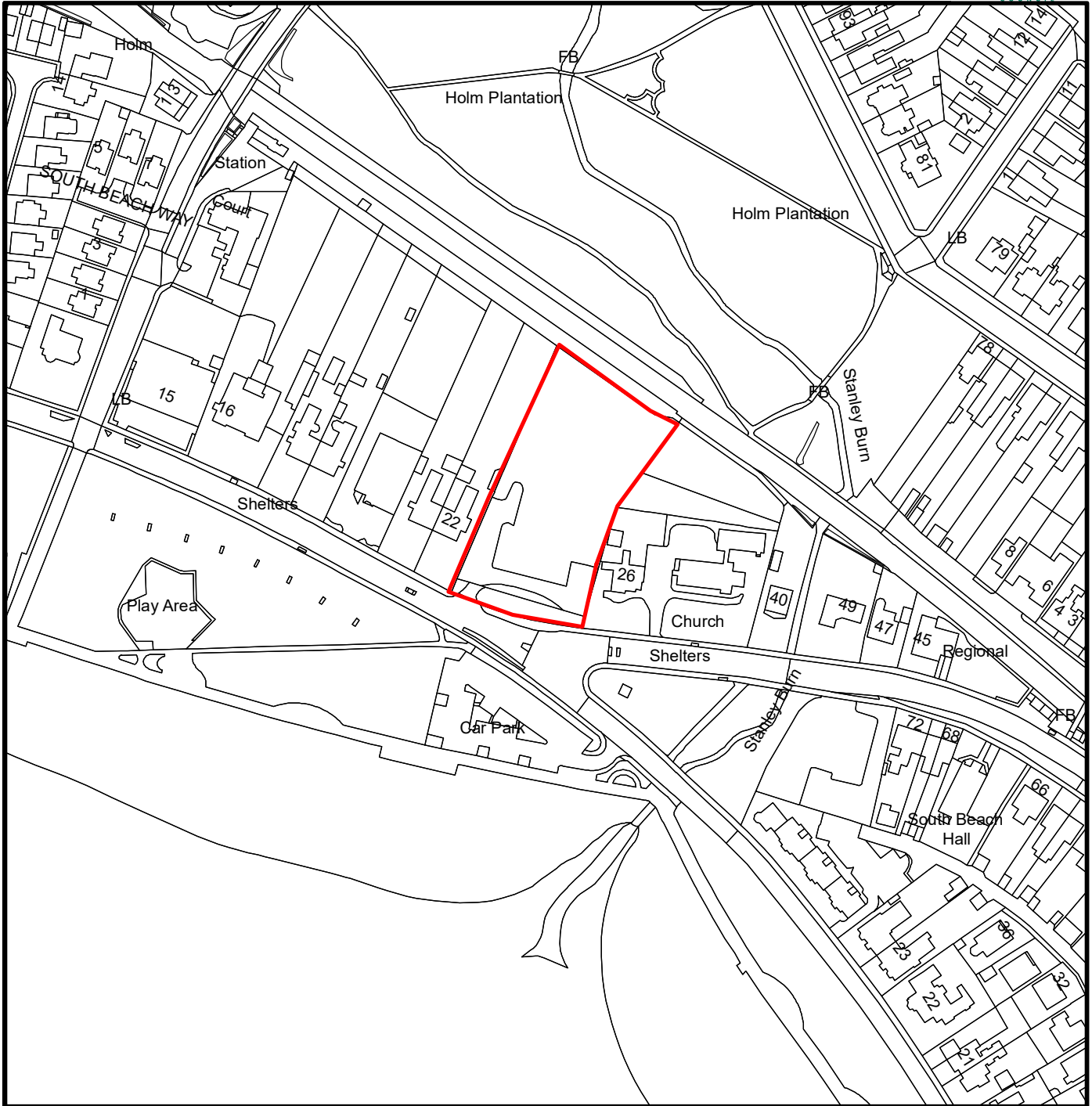


NORTH AYRSHIRE  
COUNCIL

# Former St. Peters Primary School, South Crescent Road, Ardrossan



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## NORTH AYRSHIRE COUNCIL

4 September 2019

### Planning Committee

<b>Title:</b>	<b>Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park</b>
<b>Purpose:</b>	To seek authority to serve a notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 in relation to a construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park
<b>Recommendation:</b>	Agree that authority be given to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the reinstatement of the construction access track to wild land following the construction of pipework to serve a hydro electric power generating plant near Holehouse Farm, Kilbirnie

### 1. Executive Summary

- 1.1 An extension to an access track for construction purposes some 3.5m wide over a distance of between 2 and 3km has been formed in the designated Wild Land Area (WLA) and Special Protection Area (SPA) within Clyde Muirshiel Regional Park to the north of the former Pundeevon Reservoir near Kilbirnie. The track was intended to be temporary for the purpose of laying water pipes in relation to a 900kW hydro-electric power generator which has been built near Holehouse Farm (planning permission ref. 15/00683/PP). The turbine house itself is outwith the Regional Park by 0.2km, the WLA by 2km and the SPA by 4.5km.
- 1.2 The route of the construction track through the WLA had been agreed beforehand as a condition of the planning permission for the turbine house. However, a complaint was received from Scottish Natural Heritage in February 2019 which alleged that the track as formed differed to that illustrated in the documents associated with the planning permission. Site inspection has confirmed that the alignment of the track is significantly different to that which had been previously identified by the developer, with some 700 metres having been constructed within the SPA.
- 1.3 The matter was brought to the developer's attention in February 2019. A number of requests for the removal of the track have since been issued. However, to date, no action has been taken to reinstate the land to its former condition, nor has an application

seeking consent to retain the track been made. It is therefore recommended that authority is approved for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 (an Enforcement Notice). An Enforcement Notice would require removal of the track and reinstatement of the land to its former wild state within 18 months of the effective date. The Enforcement Notice would take effect not less than 35 days from the date on which it is served. During this 35 day period, there would be a right of appeal, but not on the grounds that planning permission ought to be granted.

## **2. Background**

- 2.1 Planning permission (ref. 15/00683/PP) was granted subject to conditions on 16<sup>th</sup> December 2015 for the erection of a 900kW hydro-electric scheme on land to the south of Holehouse Farm, Kilbirnie. The water supply for the turbine house lies outside of the planning application site, although both elements are within the same land ownership, which made it feasible to attach planning conditions. As such, conditions were attached which required the developer to put in place various mitigation measures during the construction phase in relation to ecology, habitats and the water environment. The laying of the underground pipework and diversion of existing ditches to supply water to the turbine required the extension of an existing track northwest of the former Pundeavon Reservoir. The reservoir itself has been decommissioned by Scottish Water and was drained several years ago. The track is constructed of crushed stone, mostly taken from borrow pits within the WLA and SPA, and laid on top of a geo-textile membrane. There are several culverts or minor bridge structures where the track crosses over watercourses. The track was not intended to be a permanent feature within the landscape, as it was developed only to facilitate the pipe laying and ditch digging works.
- 2.2 Planning Services received a complaint from Scottish Natural Heritage in February 2019. An initial investigation confirmed that a track had been formed north of the former Pundeavon Reservoir. Contact was made with the developer in February 2019 requesting confirmation that the track would be removed upon completion of the pipework for the hydro scheme. The developer advised at the time that it was anticipated that the works would be completed during Summer 2019.
- 2.3 The developer then requested, informally, that permission be granted to retain the track on a permanent basis, apparently based on a request from the landowner. However, to date, no formal application has been submitted either by the developer or the landowner.
- 2.4 Scottish Natural Heritage (SNH) made a further complaint in July 2019 advising that the route of the track differed significantly from the original details which had been submitted to the Council in 2015. SNH advised that over 700m of track has been built within Renfrewshire Heights Special Protection Area (SPA) in the absence of any form of assessment or approval. SNH also advised that the alignment of the amended route is also particularly intrusive in relation to the Waterhead Moor – Muirshiel Wild Land Area (WLA). A site visit has confirmed that this is the case.
- 2.5 The Renfrewshire Heights SPA was designated by SNH in 2007. It covers a total area of approximately 8,940 hectares. The published conservation objectives for the SPA are “to avoid deterioration of the habitats of the qualifying species” (hen harrier).

- 2.6 The Waterhead Moor – Muirshiel WLA was designated by SNH in 2014. It covers 5,016 hectares and is one of only three such designations to the south of the Highland Boundary Fault line. The WLA is described as “open, rolling plateau moorland which forms the high moorland core of the Clyde Muirshiel Regional Park” which provides a “surprisingly strong sense of naturalness with few human elements, in contrast to the surrounding landscape.”
- 2.7 Clyde Muirshiel Regional Park is described as a Special Landscape Area in terms of the adopted North Ayrshire Council Local Development Plan (LDP). Policy ENV 7 of the LDP commits the Council to paying “special attention to the desirability of safeguarding the character or appearance of the landscape in the determination of proposals”. Policy ENV 7 also states that “development should be sited so as to avoid adverse impacts on wild land.”
- 2.8 Being located within both a SPA and a WLA, it is considered that a permanent track designed for construction purposes would constitute an adverse impact within the Special Landscape Area of Clyde Muirshiel Regional Park. A planning application for the retention of the track would therefore not be supported.

### **3. Proposals**

- 3.1 In the interests of restoring the integrity of the SPA and WLA, it is recommended that the Committee approves the service of a Notice under s.127 of the Town and Country Planning (Scotland) Act 1997 to require the following:-
- (i) Removal of the construction track north of the former Pundeavon Reservoir, including the removal of any associated, culverts and bridge structures; and
  - (ii) Restoration of the land and any associated borrow pits to its previous wild hillside condition.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person(s) who was the then owner or lessee any expenses reasonably incurred during the carrying out of these works.

#### **Human Resources**

- 4.2 None.

#### **Legal**

- 4.3 The proposed Enforcement Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council, as Planning Authority, could report such an offence to the Procurator Fiscal.

## **Equality/Socio-economic**

4.4 None.

## **Environmental and Sustainability**

4.5 The proposed Enforcement Notice supports the restoration of an area of Wild Land and the Special Protection Area within the Special Landscape Area of Clyde Muirshiel Regional Park which has been affected by the development of a construction access track.

## **Key Priorities**

4.6 The proposed Enforcement Notice would support the Council Plan priority: Inspiring Place – “North Ayrshire is a sustainable environment.”

## **Community Wealth Building**

4.7 The proposed Enforcement Notice would address complaints from Scottish Natural Heritage about the impacts on the SPA and WLA arising from the track.

## **5. Consultation**

5.1 Finance has been advised of the report in terms of its budgetary provision.



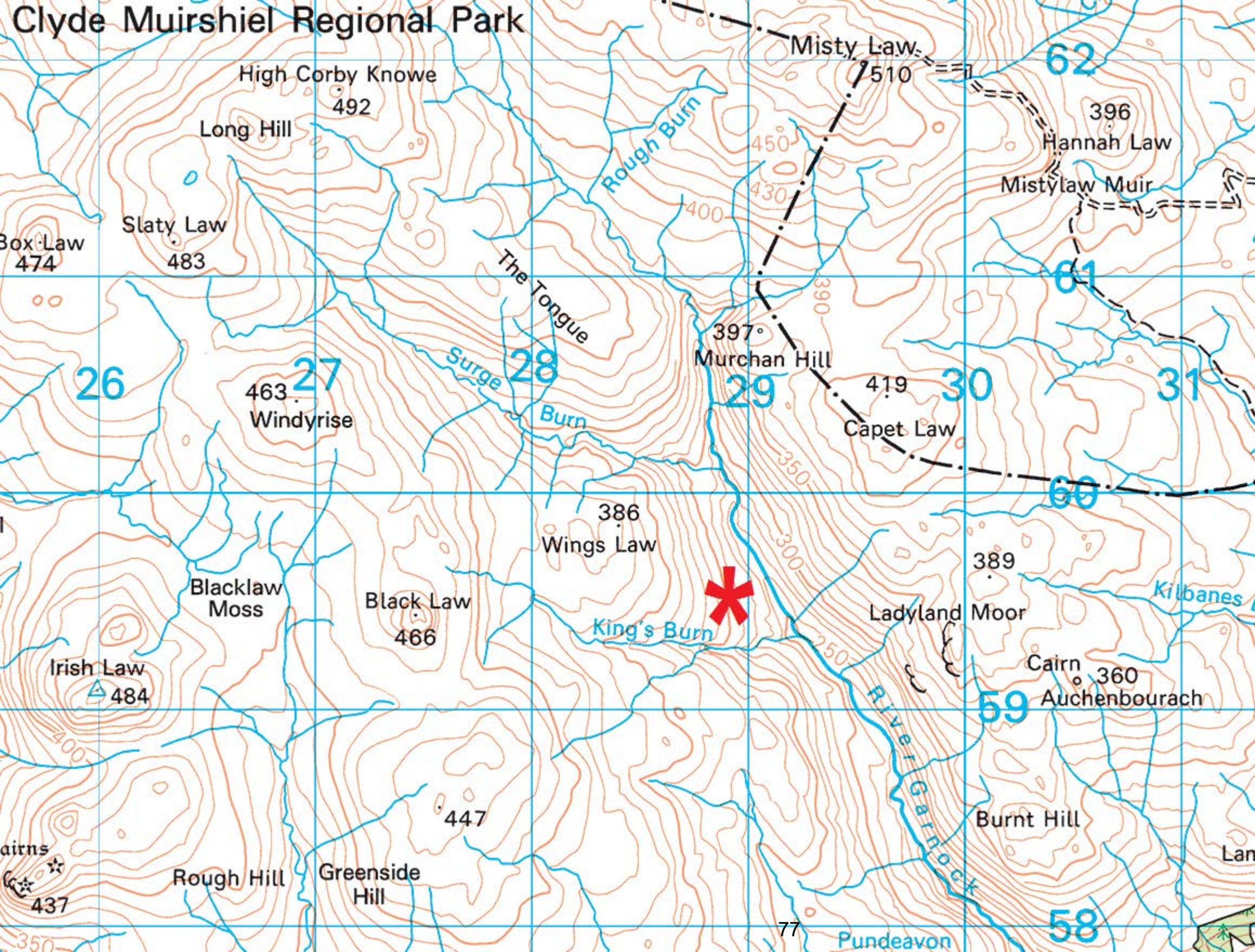
RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Mr A. Hume, Senior Development Management Officer**, on **01294 324318**.

## **Background Papers**

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# Clyde Muirshiel Regional Park





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## NORTH AYRSHIRE COUNCIL

4 September 2019

### Planning Committee

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<b>Title:</b>	<b>Notification by Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard.</b>
<b>Purpose:</b>	To note the intentions of Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard.
<b>Recommendation:</b>	That the Committee note the intentions of Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard

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### 1. Executive Summary

- 1.1 Planning permission was granted 25<sup>th</sup> April 2018 (ref: 17/01273/PP) which allowed the variation of Condition 1 of planning permission 16/00268/PP to allow the use of the Hunterston Construction Yard for the decommissioning of large marine structures. Condition 8 of the permission required a Code of Practice for the operation of the construction, repair and decommissioning of marine structures to be submitted for the approval of the Council. The Code of Practice was to include the formation of a liaison committee. This has been done.
- 1.2 Clydeport Operations Ltd (Peel Ports Group) (COL) has contacted the Council, as Planning Authority, to advise of the intention to extend the scope of the liaison committee. COL intend to widen the scope of the liaison committee to cover the whole of COL's interests at the site, Hunterston PARC, in addition to the decommissioning of marine structures.

### 2. Background

- 2.1 Details of the liaison committee were approved by the Council, as Planning Authority. The liaison committee is to comprise: Two named Council Members and their nominated deputies, to attend when the Members are unable; A member of each of the following Community Councils – Cumbræ, Fairlie, West Kilbride, Largs and Skelmorlie; Three members from Peel Ports and/or any operator of the site; and an independent chairperson.
- 2.2 In terms of the planning permission, the liaison committee's terms of reference is required to discuss issues relating to decommissioning of marine structures, as stated in the agreed terms of reference for the liaison committee.

- 2.3 Clydeport Operations Ltd (Peel Ports Group) (COL) published a Masterplan for the wider site, known as Hunterston PARC. The Masterplan was the subject of public consultation in June of this year. In June the Planning Committee, as Planning Authority, approved the Council's consultation response.
- 2.4 COL wish to broaden the scope of the liaison committee to allow discussion of wider issues which may affect Hunterston PARC.
- 2.5 Planning permission is not required for this proposal, as the liaison committee would continue to meet the terms of Condition 8 of planning permission 17/01273/PP, as noted above. Conversely, the Council cannot require Peel Ports to broaden the scope of the liaison committee as its formation is tied to permission for decommissioning marine structures.

### **3. Proposals**

- 3.1 The proposal by COL to broaden the scope of the liaison committee does not raise any planning issues and is welcomed in respect of the wider public engagement in future developments at Hunterston PARC. The broadening of the scope would be of benefit to the members of the liaison committee.
- 3.2 Given that there are no planning implications and the potential benefits a broader scope could bring, the Committee is requested to note the proposal from Peel Ports. If decommissioning of marine structures should not form part of the terms of engagement of the liaison committee, as required by the above noted planning condition, the Council, as Planning Authority, would have power to take appropriate action as required.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 None

#### **Human Resources**

- 4.2 None

#### **Legal**

- 4.3 None

#### **Equality/Socio-economic**

- 4.4 None

#### **Environmental and Sustainability**

- 4.5 None

#### **Key Priorities**

- 4.6 The widening of the scope of the Liaison Committee would support the Council plan priority 'North Ayrshire has active and strong community.' In particular the proposal is considered to support the aim to build stronger relationships between council, communities and partners

### **Community Wealth Building**

- 4.7 None

## **5. Consultation**

- 5.1 None

RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Iain Davies, Senior Development Management Officer**, on **01294 324 320**.

### **Background Papers**

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## NORTH AYRSHIRE COUNCIL

4 September 2019

### Planning Committee

**Title:** The Planning (Scotland) Act 2019

**Purpose:** To advise the Planning Committee that a new statutory basis for the operation of the planning system has been passed and to highlight the main changes to the overall framework under which the system operates.

**Recommendation:** It is recommended that the Planning Committee notes the contents of the report on the new Planning (Scotland) Act.

#### 1. Executive Summary

- 1.1 A review of the Scottish planning system has reached a major milestone with the enactment of the Planning Bill on 25 July 2019. The Planning (Scotland) Act 2019 introduces a number of changes to the overall framework under which planning operates.
- 1.2 The Act includes provisions for regulations to be made relating to a wide range of issues, including development planning, development management, performance and fees. These regulations will set out the detail of how new provisions introduced by the Act will work in practice. Additionally, there are new requirements for statutory guidance relating to matters including regional planning, engagement and the role of a Chief Planning Officer.
- 1.3 Scottish Government are currently considering the timing and priority attached to each element of the Act to inform a work programme and transitional arrangements, which will determine when parts of the Act will come into force. A timetable for this work is due to be published by Scottish Government this month, with the expectation that it will take around two years for the details of the new system to take shape.

#### 2. Background

- 2.1 In September 2015, an independent panel was appointed by Scottish Ministers to review the planning system. The three-person-panel was tasked with providing a 'root and branch' review and encouraged to explore game-changing ideas for radical reform. The Review Panel's report, published in May 2016, concluded while the main structure of the planning system is fit for purpose, a strong commitment to change existing practices and culture was required to realise the potential of planning and create a more positive and effective system.

- 2.2 Taking forward the 48 recommendations of the Review, the Scottish Government published a consultation on the future of planning in Scotland in the early part of 2017. The consultation paper set out 20 proposals for change to strengthen the planning system and support sustainable economic growth. This was followed by a position statement in June 2017, which set out Government's future priorities for the planning system in Scotland, taking account of responses to the consultation and proposing both legislative and non-legislative changes. In respect to the former, the Planning (Scotland) Bill was introduced to the Scottish Parliament on 4 December 2017.
- 2.4 The progress of the Bill through Parliament was protracted, with 100s of amendments tabled, debated and voted on by MSPs; following stage 2, there were concerns that the Bill was unworkable and unnecessarily complex, particularly if local authorities were not granted the necessary resources to implement the relevant provisions and new duties. Many of these amendments were eventually rejected or reduced in scope at Stage 3, with the final form of the Bill passed in June 2019.
- 2.5 The main changes to the planning system arising from the Act include:
- i) The review period for **Local Development Plans** increases from 5 years to 10 years, albeit with provision to make amendments. In the preparation of Local Developments Plans, the Main Issues Report is replaced by an Evidence Report, which is submitted to Scottish Ministers for assessment at the start of the process.
  - ii) Strategic Development Plans are replaced by **Regional Spatial Strategies**. Currently, Strategic Development Plans are only required in Scotland's city regions (Glasgow, Edinburgh, Aberdeen and Dundee); it remains to be seen whether Scottish Ministers will direct Ayrshire authorities to prepare a regional spatial strategy for this region.
  - iii) Perhaps the most significant reform contained in the Act are **Local Place Plans**. Before preparing a local development plan, planning authorities are to publish an invitation to local communities in their district to prepare local place plans.
  - iv) Planning authorities are required prepare an **Open Space Strategy**, setting out policies and proposals for the development, maintenance and use of green infrastructure, including open spaces and green networks.
  - v) A new provision allows planning authorities to designate **short-term let control areas** in which the use of a dwellinghouse for the purpose of providing short-term lets will be deemed to involve a material change of use of the dwellinghouse, and therefore require planning consent.
  - vi) Scottish Ministers can now make provision for the payment of compensation where planning permission granted by a **development order** is withdrawn and planning permission for development formerly permitted by that order is subsequently refused or granted subject to conditions other than those imposed by that order. This is relevant in the context of the Special Development Order in place at Ardeer.

- vii) There is provision for increased fines for breaches of planning control and mechanisms to recoup the costs of taking direct action.
- viii) The Act creates the power to impose training requirements on members of a planning authority and prohibiting them from decision-making if they have not fulfilled specified training requirements.
- ix) Under the Act, each planning authority must have a **Chief Planning Officer** to advise the authority about development and the operation of the planning system.
- x) Planning authorities are to prepare a **forestry and woodland strategy** to identify woodlands of high nature conservation value and set out policies and proposals as to the development, protection, enhancement and expansion of woodlands. This will have particular relevance to Arran.
- xi) Provision is made for a new **infrastructure levy**, payable to local authorities to fund or contribute to funding infrastructure projects.

2.6 The detail of how these new provisions will work in practice will be contained within secondary legislation and guidance. The Scottish Government is currently considering the timing and priority attached to parts of the Act in order to inform a coherent forward work programme. It is anticipated that as an ambitious programme of change it will take around two years for the details of the new system to take shape.

### 3. Proposals

3.1 It is recommended that the Planning Committee notes the contents of the report on the Planning (Scotland) Act.

#### 4. Implications/Socio-economic Duty

<b>Financial:</b>	A financial memorandum was prepared for the Planning Bill as amended at Stage 2. This put the cost to planning authorities of implementation at between £18.84m to £74.33m. Further analysis of the financial implications of final form of the Act is required.,
<b>Human Resources:</b>	Additional duties imposed by the Act may have human resources implications. Additionally, the Council will be required to formally appoint a Chief Planning Officer.
<b>Legal:</b>	The Council will be required to follow the new Act when carrying out the functions conferred on it by virtue of the planning Acts, once they come into force.
<b>Equality/Socio-economic Duty:</b>	An equality impact assessment (EQIA) looking at the potential impacts of the Planning (Scotland) Bill as amended at stage 2 was undertaken by Scottish Government.
<b>Children and Young People:</b>	A child rights and wellbeing impact assessment considering likely impacts of proposals in the Planning Bill was undertaken was undertaken by Scottish Government.
<b>Environmental &amp; Sustainability:</b>	The Planning Bill has been subject to Strategic Environmental Assessment.
<b>Key Priorities:</b>	The Planning System acts to support many of the Council's key priorities, including outcomes relating to communities; economy; housing; environment and infrastructure.
<b>Community Benefits:</b>	The Planning (Scotland) Act, in the provision for Local Place Plans, may lead to increased opportunities for community benefit to be accrued.

#### 5. Consultation

5.1 None.

RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Alistair Gemmell, Planning Officer**, on **01294 324021**.

#### Background Papers

The Planning (Scotland) Act 2019 can be viewed at:

<http://www.legislation.gov.uk/asp/2019/13/contents/enacted>

## NORTH AYRSHIRE COUNCIL

4 September 2019

### Planning Committee

<b>Title:</b>	<b>Control of Advertisements Planning Guidance</b>
<b>Purpose:</b>	To seek approval to update the Council's adopted current planning guidance on advertisements
<b>Recommendation:</b>	<p>It is recommended that Planning Committee: -</p> <ul style="list-style-type: none"> <li>i) grants delegated powers to the Head of Economic Development and Regeneration to adopt the proposed Control of Advertisements Planning Guidance, subject to confirmation that a strategic environmental assessment is not required; and,</li> <li>ii) approves the deletion of the current Control of Advertisements Planning Guidance at the point of adoption of the reviewed guidance.</li> </ul>

### 1. Executive Summary

- 1.1 In March 2019, the Planning Committee approved the commencement of a review of the Council's existing planning guidance. As part of the review, an early update to the Council's planning guidance on advertisements has been completed and this report seeks delegated powers to approve the guidance as a material planning consideration in determining applications for advertisement consent, subject to confirmation that a strategic environment assessment procedures. The updated guidance is attached as Appendix 1.

### 2. Background

- 2.1 As part of the work programme to review all planning guidance approved by Planning Committee in March 2019, work has commenced to develop a work programme to implement a comprehensive review. Planning guidance is a material planning consideration that provides planning policy guidance to supplement a council's local development plan.
- 2.2 The review of guidance on advertisement consents has been undertaken to reflect that forms of signage, which are now commonplace, but which were not at the time of the adoption of the current guidance, are not adequately covered by the existing policy guidance. Consequently, the policy review has reflected on, and created criteria to control the display of adverts, for example, for totem signage and signage on roundabouts. The review has also updated terms of reference, which had become out-of-date since the adoption of the current guidance.

- 2.3 The updated guidance supports the use of totem pole signage at appropriate location (e.g. retail parks) and signage on roundabouts, where there are no road safety issues, and the proposal is within a settlements boundary and avoids high amenity areas, such as wholly residential areas, conservations areas and the setting of listed buildings. This update is intended to support and control advertising in appropriate locations, to continue to address clutter and assist to reduce proliferation of unauthorised signage.
- 2.4 The reviewed guidance retains all existing guidance for other signage types including hoardings, advance signs, freestanding illuminated signs; as well as guidance on signs affecting built heritage assets, coastal areas, clutter and skyline signs.
- 2.5 In undertaking the review and producing additional guidance, advice on road safety was considered. The Head of Commercial Services has confirmed that the types of signage contained in the reviewed guidance will not, in principle, give rise to road safety concerns. The impact of proposals on both amenity and public safety will be considered on a case-by-case basis through the planning process which includes robust review by Roads Services on any road safety issues when determining approval for applications.
- 2.6 The planning guidance relates to policies contained in the Local Development Plan, which has been the subject of a full strategic environmental assessment. As such, the advertising planning guidance, particularly given its content, does not require to undergo a comprehensive strategic environmental assessment. A screening report has been completed to reflect this view and is currently being considered, by the Scottish Government Environmental Gateway, for a period of 28 days from submission. In anticipation that this position is accepted, members are asked to approve the delegation of authority to the Head of Economic Development and Regeneration to adopt the guidance, and the deletion of the current guidance, at that time.

### **3. Proposals**

#### **3.1**

It is recommended that Planning Committee: -

- i) grants delegated powers to the Head of Economic Development and Regeneration to adopt the proposed Control of Advertisements Planning Guidance, subject to clearance from the Scottish Government Environment Gateway; and,
- ii) approves the deletion of the current Control of Advertisements Planning Guidance at the point of adoption of the reviewed guidance.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 No planning implications.

#### **Human Resources**

- 4.2 None.

## **Legal**

4.3 None.

## **Equality/Socio-economic**

4.4 None.

## **Environmental and Sustainability**

4.5 The advertisement guidance has been the subject of a screening report for strategic environmental assessment purposes expressing the Council's view that the guidance should not be the subject of a strategic environmental assessment, because the related local development plan has been the subject of same; and the impact of the guidance will not give rise to significant environmental impacts. The Council is awaiting conformation of the acceptability of this position from the Scottish Government, upon which the guidance can be adopted, subject to the approval of this report.

## **Key Priorities**

4.6 The policy is intended to manage proposals for signage and to continue to address signage clutter and proliferation in areas which have a high amenity value. The adoption of this guidance will contribute to the North Ayrshire Council Plan priority outcome that North Ayrshire is a vibrant, welcoming and attractive environment.

## **Community Wealth Building**

4.7 None.

## **5. Consultation**

5.1 Consultation with Commercial Services has been undertaken by Planning Services.

RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Neale McIlvanney name, Strategic Planning Manager**, on **01294 324686**.

## **Background Papers**

Appendix 1 – Control of Advertisements Planning Guidance

## Control of Advertisements Policy

Planning Guidance

North Ayrshire Council

## Control of Advertisements Policy

### 1. Introduction

The purpose of advertising is to provide information to the public, whether by advice, direction or announcement of goods and services provided. When used in moderation, this function is adequately served and there should be no conflict with public safety or amenity. However, when a multiplicity of signs is used or when an advertiser seeks a larger or brighter sign than competitors the original purpose of the sign is lost due to the visual confusion which results.

The display of most advertisements requires consent and applications for consent are determined with regard to amenity and public safety.

The policy selected must be broad in its approach and flexible enough to cater for different circumstances, within the terms of the Regulations, as a proposal which might be deemed unsuitable in one location might well be acceptable in another. The overriding consideration in each individual case must be public safety and amenity.

The following policy, therefore, has been adopted by North Ayrshire Council as a basis for the control of advertisements. This document aims to provide advice on advertisements requiring express consent. This policy does not apply to shopfront signage, which can be found within the Councils approved Shopfront Design Guidance. (<http://www.north-ayrshire.gov.uk/Documents/CorporateServices/LegalProtective/Planning/shopfront-design.pdf>)

### 2. Scope of Powers

The legislation dealing with the control of advertisements is the [Town and Country Planning \(Control of Advertisements\) \(Scotland\) Regulations 1984](#). The powers available under this legislation are only exercisable in two respects, amenity and public safety. In terms of amenity, the local planning authority are obliged to take account of the general characteristics of the area, particularly any feature of architectural, historic, cultural or civic interest. In terms of public safety, the local planning authority must have regard to the potential effect of the proposed advertisement on road traffic signs, railway signals or any aid to navigation by water or air. Certain categories of advertisements can be displayed without express consent. The main categories are functional advertisements such as:

- a) road signs
- b) advertisements relating to business premises, with restrictions on size and height
- c) certain advertisements of a temporary nature, e.g. on building sites

Generally illuminated or projecting signs are not included in these categories.

### 3. Areas of Special Control

Subject to the approval of Scottish Ministers, the legislation permits the local planning authority to designate any part of its areas as an area of special control, which would generally protect areas of high landscape or townscape value. North Ayrshire Council has not designated any areas of special control.

### 4. Application of Policy

Some types of advertisements which require express consent can be considered under the following heading: -

#### **a) Hoardings**

In certain circumstances hoardings can provide environmental benefits in their locality where they mask visibility into derelict or vacant land. However, given the size and visual impact of many hoardings, careful consideration should be given to such proposals.

#### **b) Advance Signs**

Advance signs will only be permitted in rural areas in relation to isolated businesses which satisfy the following criteria:

- They are substantially dependant on passing trade from outwith the immediate vicinity. The premises and associated signs which could be erected without express permission are not readily visible from an A Class road, and
- The local directional signposting is inadequate for identification purposes.

Where permitted, advance signs should conform to a standard design, agreed by North Ayrshire Council and should identify the premises, its location and principal function using a combination of words and standard symbols. A maximum of one double-sided or two single-sided signs shall be permitted at the nearest A Class road junction to the establishment advertised, and, thereafter directional signs of a standard type at minor road junctions as agreed by North Ayrshire Council.

#### **c) Freestanding Signs (including illuminated)**

These signs are mainly associated with petrol stations, repair garages and drive thru's which are often situated in non-commercial areas. In order to minimise visual intrusion, only one pole mounted identification sign shall be permitted on each road frontage of the premises. In addition, illuminated signs on canopies over pumps shall be permitted provided that they do not increase the depth of the canopies or interfere with road safety.

Retail parks and commercial centres often use totem signs to advertise stores within the park area. Totem signage will only be permitted within the retail park area and subject to there being no adverse impact on road safety and the amenity of the area (including adverse impact on sensitive land uses such as residential).

#### **d) Permitted Advertising and Sponsorship**

The Council supports the creation of sponsored signage space at locations in North Ayrshire where it is in keeping with the amenity of the area and doesn't compromise road safety, by complying with the following criteria. This will assist to reduce unauthorised signage, creating a more attractive and welcoming environment for residents, visitors and business. The Council will support the creation of advertising space within settlement boundaries where the signs conform to a standardised approach for roundabout signs by:

- being positioned to avoid conflict with existing road signs and avoiding directional words or arrows, which might be confused with traffic direction signs;
- Minimising the impact of the advertising structure, by reducing the visibility of the signage frames, ensuring adverts are displayed no higher than 1.5m from ground level; by non-reflective finishes on all surfaces and ensuring, on an individual basis, that driver visibility of the traffic route is not adversely affected or obscured.
- ensuring signs are non-illuminated;
- not resulting in clutter by way of over-provision of signage on any one roundabout;
- avoiding locations that have a high amenity value, such as open countryside, wholly residential areas, conservation areas (and their setting) and areas affecting the setting of a listed building, scheduled ancient monuments/ or historic parks and gardens.

It should be noted that consent will be required for the advertising structures; however, the content of the advertising space will not be a subject to planning control. Control of content will be exercised outwith the planning system, and through corporate management of any such signage location.

#### **5. Other Special Circumstances**

##### **a) Conservation Areas**

Within Conservation Areas, normal standard signs may not be appropriate, and any signs should be individually designed to relate to enhance the character of the area and the style of building.

##### **b) Listed Buildings**

Any sign to be erected on a Listed Building used for business or commercial purposes should be carefully designed to relate to the character and style of the building. Where it is considered that signs which have deemed consent adversely affect the appearance or setting of a Listed Building, the discontinuance procedure may be followed to remove those signs considered inappropriate. Listed building consent will also be required for advertisement on listed buildings.

c) Coastal Zone Advertisements shall not be permitted which would interfere with the seaward views available from the coastal roads and be detrimental to the amenity of the area.

d) Clutter

Where a proliferation of advertisements occurs on a site or building to the detriment of the amenity of the area, enforcement action will be considered. In particular, this will be considered where important buildings or views are adversely affected, or where road safety is adversely affected.

e) Skyline Signs

Signs or advertisements which would project above the roof of the building on which they are displayed will generally not be supported. This restriction will be applied to both flat and pitched roofs.

6. Summary

- Advance signs shall not be permitted except where in the opinion of the local planning authority the display is considered to neither harm amenity or public safety and be in the public interest and/or where special justification of need is shown.
- Applications for hoardings will be given careful consideration.
- Only one pole-mounted illuminated sign shall be permitted on each road frontage of petrol filling stations etc. Illuminated signs over pump canopies shall be permitted provided they do not increase the depth of the canopy.
- Applications for advertisements displayed within Conservation Areas will be the subject of careful consideration. The design of signs must be carefully integrated with the special character and form of these visually sensitive areas.
- Applications for the display of advertisements on listed buildings will be subject of careful consideration. Such signs must not detract from the inherent architectural value of these buildings and in most cases will have to be specifically designed.